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DAVID HUME S POLITICAL ESSAYS

DAVID HUME'S POLITICAL ESSAYS

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CONTENTS

INTRODUCTION

I IMPORTANCE OF THE POLITICAL ESSAYS

In *My Own Life* one of the briefest of autobiographies, told in less than eight pages, David Hume speaks of his *Pol tical Discourses* (1752) as the only work of mine that was success ful on the first publication It was well received abroad and at home. That book was a second volume of *Essays Moral and Pol tical* the first of which had appea ed ten years earlier in 1742, at which time also Hume says the v ork was favorably received and soon made me enti ely forget my former disappoint ment. The disappo ntment had been over his first philosophi cal work a la ge book in th ee volumes, *Tl e Treat se of Human Natu e* which fell dead bo n from the press The favor shown tl e *Essays* durin, the years immediately after that failure re vived Humes sp rits however and he kept writing more essays, adding them as successive ed tions were publ shed He also at tempted to make the first volume of the ill fated *T eatise* more palatable by p esenting it likewise in the briefer essay form under the title *Ph losophical Essays Concerning the Human Understand g* (1748)—ad ertising it too as written by the auth of the *Essays Mor l and Pol tical* The advertisement evidently had some of its intended effect since a second edition was necessary in 1751 It was clear to Hume himself that his moral and political essays were carrying, so to speak his philo soph cal writings, and he proceeded to write the v hole new series, v hich came out in 1752 under the title *Polit cal Dis cou es* and v as an instant success

Hume was grateful for that recogn tion and apparently he was inspired by it *My Own L f* goes on to tell how he at once began w rk in an enti ely nev field as a sequel to those politi cal writings. For the year 1752 he obtained the post of l brarian of the F culty of Advocates in Edinburgh where he had a large library at his disposal and began work upon a *H story of*

died in a few months, on August 25 1776 at the age of sixty five. His dearest friend, Adam Smith supplements the autobiography with a letter telling how cheerful and Socratic David Hume had been in those last days

The picture Hume gives of himself is quite unfamiliar to present-day students of philosophy We commonly regard him as having been the most important sceptic in modern philosophy and find it hard to believe that such a reputation as he enjoyed in his lifetime came almost exclusively through his *Essays* and particularly the political essays. If that was actually his only title to renown then we begin to understand why Hume continually hoped for more attention to his writings This was not an inordinate craving for fame unbecoming to the philosopher Indeed it was the proper desert of the philosopher that his discoveries in thought should be recognized and evaluated Hume sought a response from others to the challenge of the essential questions which he had raised about reasoning in terms of cause and effect, and which he confessed he could not satisfactorily solve, so that he had honestly to avow himself a philosophical sceptic It was enough for most of his contemporaries to read that confession of scepticism—they were little interested in the reason for it. As Hume said in letters on this subject "The arguments have been laid before the world and by some philosophical minds have been attended to but the answer it seemed, would have to be given eventually by distant posterity We know these to have been prophetic words since Immanuel Kant in far off Konigsberg in East Prussia, perceived at last the ground as well as the significance of Humes problems and thereupon focused all philosophy on the task of meeting Humes scepticism Since then we have honored Hume as a great philosopher in the realm of knowledge

It is worth noting incidentally that Hume himself tried in more than one way to bring his essential question concerning reason and knowledge to the notice of the philosophical world

See J H Burton *Life and Correspondence of David Hume* 2 vols (Edinburgh William Tait, 1846) Vol I Ch I p 98

See J Y T Greig, editor *The Letters of David Hume* (Oxford Clarendon Press, 1932) Vol II pp 25 322.

thinking of them only as useful external aids to effect the recognition of Hume's real philosophical achievement. they were an essential part of H
When honor was paid him
aside deprecatingly as som
himself It is necessary to remember that his unhappy *Treatise of Human Nature* had a subtitle, viz. *Being an Attempt to Apply the Experimental Method of Reasoning to Moral Subjects* In the very Introduction he had affiliated himself with a number of writers who have begun to put the science of man on a new footing, and have engaged the attention and excited the curiosity of the public Those named were John Locke, My Lord Shaftesbury Dr Mandeville Mr Hutchinson Dr Butler etc., the representatives of the British tradition of moral philosophy which was at its prime in that century the age of man preoccupied with human nature, human understanding, morals, government, art, criticism and natural religion All these interests in what concerned man had somehow to be gathered under one rubric. The term natural philosophy had been used for the whole of the study of physical nature the signal example of which was Newton's *Principles of Natural Knowledge* By contrast then moral philosophy was used to designate a similarly comprehensive knowledge of all the things relative to man the things where man himself is implicated in the facts, where his opinions, tastes judgment reason and will are in some way involved Here was a field of experience where man's knowledge of himself could be of use for the improvement of his life through education and political reform. Moral philosophy then comprised all th t s the subject matter of psychology aesthetics and criticism ethics, political and economic science, and the rudiments of sociology and made a consummate moral knowledge available for the general welfare and happiness of mankind

Treatise of Human Nature edited by T H Green and T H Grose (London Longmans, Green and Company 1898) Vol I p 308 and footnote

This description is taken from ccount by the editor f Th Charact of Philosophy in Canada, in *Journal of Philosophy and Phenomenology* (March 1952) Vol XII N 3 pp. 365–376

presented them as hypotheses which needed verification He adduced the facts relevant to each theme discussed weighed the evidence and then delivered his opinion as something sustained by both reason and experience

Humes political essays present not only themes but arguments They constitute a ph losophy of politics, but the concept of politics is here broader than that with which we are familiar For instance, the topics treated in the second series as *pol tical* discourses we would today classify as *economic* Moreover Humes discussions of pol tics cannot be separated ent rely from the larger context of his thinking, namely the science of man wh ch he had forecast in his youth—a science that took manifold forms including the sciences of government, of political economy of society of morals and even to employ an expression of today the science of culture. It is necessary if we are to grasp the argument adequately to make reference to these cognate matters in our introductory survey and analysis of the political essays, especially since the economic essays ha e not been included here for lack of space.

There is an essay on the theme "That Pol tics May Be Reduced to a Science, namely pol tical science Such a science is important because it is not at all a matter of indifference under what form of government we live The differences between the forms a e essential indeed

> So great is the force of la s and of particular forms of government, and so little dependence have they on the humors and tempers of men that consequences almost as general and certain may sometimes be deduced from them as any which the mathematical sciences afford us

There is a connection therefore, between the political forms and the kind of life a nation has under them This thought was implicit in the words from Pericles funeral oration as recorded by Thucydides in his history of the G eek wars "What was the road by which we reached ou position what the form of government under which our greatness grew what the national

P ge 13

be good for instilling order and moderation into the conduct of public affairs, the actual manners and customs prevailing in society at large may have bred little humanity or justice into the tempers of men Here Hume dwells on the case of a disparity between custom and "law and suggests a view contrary both to that of Thucyd des in the passage v e have quoted and to Aristotle in his *Politics* The moral was that those who are members of political parties should govern themselves better in their zeal and cultivate a personal moderation in order that they may not wreck the constitution and the good laws of the country The same lesson is taught in several later essays treating of the British government and parties. However Hume is here advancing other propositions of quite general character He urges h s basic view that it is on opinion only that government is founded This opinion is forthwith analyzed into two kinds One is opinion as to the sense of the general advantage which is reaped from government and when this opinion obtains the government has great security The other kind is opinion as to the right which in turn, is of tv o kinds one the right to power the other that to property All government in any society actually rests then on the state of opinion in these th ee respects the public interest lawful po er and property It follov s that the most enduring government is that in which th th ee types of op n on a e all properly satisfied and in balance

The essay Of Ci il Liberty characterizes some great advances made in modern times over the ncient v orld notably in that the civilized monarchies a e a go ernment of la vs not of man There is a connection a serted too between the rise and p ogress of arts and sciences and such civil l berty under a constitution —a theme pursued further in two separate essays on the arts

P ge 19
See Aristotl Pol ic 1 69
Wh ther th B itish Gov rnment Incl nes Mor t Absolute Mon rchy to Republic, pp 72 ff Of the P rties f Gre t B tain pp. 85 ff and Of the I d penden f Parliament, pp 68 ff
P g 106

habits out of which it sprang [2] And Polybius in another epoch wrote of his own history of Rome

The best and most valuable result I aim at is that readers of my work may gain a knowledge how it was and by virtue of what peculiar political institutions that in less than fifty three years the whole world was overcome and fell under the single dominion of Rome [3]

Hume was interested in precisely such regular connections of things in the modern as well as the ancient world He pointed out for example what had happened in the later Roman Republic, where the constitution gave the whole legislative power to the people without allowing a negative voice either to the nobility or the consuls In due time the whole government fell into anarchy and the greatest happiness which the Romans could look for was the despotic power of the Caesars Such are the effects of democracy without a representative

This interpretation of ancient history was made in the light of English experience Hume actually laid it down as a universal axiom in politics *that a hereditary prince a nobility without vassals and a people voting by their representatives form the best monarchy aristocracy and democracy* This was the first example Hume chose of a political science a most striking and pertinent one for his own day Others however were also presented free governments have been commonly the most happy for those who partake of their freedom yet are they the most ruinous and oppressive to their provinces a proposition particularly applicable to the treatment of Ireland and the British colonies of North America A strange proposition is then offered that the ages of greatest public spirit are not always most eminent for private virtue [7] the point being that while laws may

The *Peloponnesian War* translated by Richard Crowley (London J M Dent and Sons Ltd) Bk V Ch XVI p 1

Polybius *Histories* Vol III Bk VI Preface Translated by W R Paton Loeb Classical Library (Harvard University Press 1923)

Page 13

Page 15

Page 15

Page 19

Another essay "Of Money" is a study of price and value with emphasis again on "good policy" in government with respect to keeping alive a spirit of industry in the nation and thereby increasing "the stock of labor in which consist all real power and riches." Here speaks the teacher of Adam Smith. Many other *perçus* may be seen such as the following:

It seems a maxim almost self-evident that the prices of every thing depend on the proportion between commodities and money and that any considerable alteration on either has the same effect either of heightening or lowering the price. . . .
It is also evident that the prices do not so much depend on the absolute quantity of commodities and that of money which are in a nation as on that of the commodities which come or may come into market, and of the money which circulates. . . . It is only the overplus, compared to the demand, that determines the value. . . .
And as to the wealth of a nation . . . men and commodities are the real strength of any community.

It is worthy of notice in passing that Karl Marx studied the essays of Hume on the subject of the cause of surplus value and connected the above assertion about surplus value with Hume's previous one that labor is the source of value. Marx could not fail to note, moreover, the statement in the essay "Of Interest":

In all these transactions, it is necessary and reasonable that a considerable part of the commodities and labor should belong to the men to whom in a great measure they are owing. . . . Merchants . . . beget industry, by serving as canals to convey it through every corner of the state, and at the same time by their frugality they acquire great power over that industry and collect a large property in the labor and commodities which they are the chief instruments in producing.

Hume was not concerned here with ownership but with the whole operation of the economy, disregarding the question of justice in the enjoyment of the fruits of the economy.

Essays Moral, Political and Literary, edited by T. H. Green and T. H. Grose (London: Longmans, Green and Company, 1898), pp. 316, 319.
Ibid., pp. 3 5, 326. See extracts from Marx's unpublished material in the volume of selections translated by G. A. Bonner and Emil Burns entitled *Theories of Surplus Value* (London: Lawrence and Wishart, 1951), pp. 34–40.

and sciences [12] A further thought based on a general observation of Europe, is that civilization is much enhanced by the coexistence of a number of neighboring and independent states connected together by commerce and policy [13] This remark forecasts the subsequent essay Of the Balance of Power and likewise several economic essays that treat of the mutual benefits of active, unimpeded trade In Of Civil Liberty however the point is made that this condition of the close neighborhood of independent states constitutes a desirable check on power and authority in every one of the societies and thus is favorable to liberty

The theme of liberty is developed in a very original way in another context namely the economic system of modern society Hume's essays on political economy show the important consequences of the politics of a free society for the whole life of the people the well being of individuals the wealth of nations the health and progress of their culture There is an adumbration in these essays of a science of society or sociology and of a philosophy of culture The themes of the distinctively economic essays must be mentioned here because as we have said they are part of Hume's argument and reveal its significance

The essay Of Commerce demonstrates the value of freedom in trade and industry The conditions of the modern world are such that sovereigns who may only be concerned with their own interests of power are nonetheless obliged to consult the public interest For their power rests upon the wealth of their respective peoples which is determined by free commerce and that in turn depends upon giving scope to men's personal desire for goods and enjoyment

Everything in the world is purchased by labor and our passions are the only causes of labor The more labor therefore that is employed beyond mere necessaries the more powerful is any state Thus the greatness of the sovereign and the happiness of the state are in a great measure united with regard to trade and manufactures

[12] Of the Rise and Progress of the Arts and Sciences pp 111 ff and Of Refinement in the Arts p 123 ff
Page 116
Pages 135-136

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Essay Moral P l ical nd Literary edited by T H G een and T H Grose (London Lo gma s, G een d Comp y 1898) pp 316 319
Ibid. pp 3 5 3 6 See extracts from Marx's unpubl hed material in the volume f selecti tra sl ted by G A Bon d Emil Burn entitled *Theories f Surpl Value* (Londo Lawrence and Wishart 1951) pp 34–40

> And thus if we consider the whole connection of causes and effects interest is the barometer of the state, and its lowness is a sign almost infallible of the flourishing condition of a people It proves the increase of industry and its prompt circulation through the whole state, little inferior to a demonstration [11]

The argument is extended beyond the state in the essay *Of the Balance of Trade*

> How is the balance kept in the provinces of every kingdom among themselves but by the force of this principle, which makes it impossible for money to lose its level and either to rise or sink beyond the proportion of the labor and commodities which are in each province?
> What happens in small portions of mankind must take place in greater [12]

It is the balance that is important In this respect states or governments have a power and a responsibility They have the power to take artificial measures both to raise money beyond its material level in any kingdom and to lower it

Hume examines first the policy of depreciation A lowering of the value of money can be effected by authorizing paper money or credit which will raise proportionately the price of labor and commodities Internally this makes no difference to the actual wealth of any particular individual as compared with any other yet it does have a general result of giving further encouragement to industry Externally however this device is of doubtful value since it cannot change the governing principle of a balance in respect of labor and commodities the only thing valuable in commerce Such questions of trade and money are extremely complicated Hume adds and he cautions against too ready a condemnation of the disadvantages of inflationary measures for these may well admit of a compensation and even an over balance from the increase of industry and of credit which may be promoted by the right use of paper money Similarly the practice of discounting bills is a useful institution facilitated by credit Merchants acquire a great facility in supporting each other's

[11] *Ibid.* p 3[illegible]7
[12] *Ibid* pp 334 335
[13] *Ibid.* pp 337–339

credit, which is a considerable security against bankruptcies And, likewise, companies or associations are another invention which can be of general advantage to industry and commerce

On the other side of the ledger however such devices to raise the value of money artificially as by hoarding bullion and with drawing it from circulation must be scrutinized The state possessing the hoard is likely then to use such wealth in dangerous and ill-concerted projects, and thereby probably destroy with it what is much more valuable the industry morals, and numbers of its people. Essentially it is the enterprise of the people and the free circulation of the products of their industry that are important for the wealth of the nation

From these principles we may learn what judgment we ought to form of these numberless bars, obstructions and imposts which all nations of Europe and none more than England have put upon trade from an exorbitant desire of amassing money [And the] general ill effect results from them that they deprive neighboring nations of that free communication and exchange which the Author of the world has intended by giving them soils, climates and geniuses so different from each other

The nations heedlessly adopt a hundred impolitic contrivances, which serve no other purpose but to check industry and rob ourselves and our neighbors of the common benefits of art and nature

Hume interjects at this point a warning not to regard all taxes whatsoever as prejudicial or useless, but only those which are motivated by the jealousy above mentioned where people see loss to themselves in a neighbor's prosperity He concludes his observations with regard to operations of the state for the regulation of its commerce as follows

In short a government has great reason to preserve with care its people and its manufactures Its money it may safely trust to the course of human affairs, without fear or jealousy

Ibid pp 339 340
Ibid pp 341 343
Ibid p 343
Ibid pp 343–345

culation and encouraging industry But in the interior economy of the state there are nevertheless many weightier disadvantages First is the flocking of the populat on of the country to cities the consequent overweening importance of a capital city over other towns, and the permanent interest of the capital in always supporting the pol cies of the government in whose solvency it has such a stake Second, the public securities drive out private financing which tends to render all provisions and labor dearer than otherwise they would be Th rd the taxes for the interest payment cause an increase in the cost of labor and besides they also weigh heavily on the poorer people. Fourth large holdings of bonds by fo eigners make the publ c of the nation tributary to them and in time even the home industry may come to be transferred to them F fth the greater part of the securities will be held by dle people who live on their income and this means our funds, in that view give great encouragement to a useless and in active life. [¹] But these drawbacks are far less important than the prejudice that results to a state considered as a body politic wh ch must support itself in the society of nat ons and have various transactions with other states in wars and negotiations The ill there is pure and unmixed, without any favo able circum stance to atone for it and it is an ill too of a nature the highest and most impo tant

For self p eservation is of paramount value

The policy Hume develops in th s argument is that bounds hould be set to national debts I must confess when I see princes and states fighting and quarreling amidst their debts, funds and publ c mortgages it always brings to my mind a match of cudgel playing fought in a china shop Individuals and states alike w ll be ruined by unlimited use of publ c cred t

These seem to be the events wh ch a e not very remote and wh ch eason fo esees as clearly almost as she can do anything that l es n the womb of time. And though the ancients main

Ibid pp 364–365
Ibid pp 365 366
Ibid. p 366
Ibid. p 396

ity whence it is derived and preserves the harmony of the constitution

But the limitation of power is effected not only by the laws of the constitution but also through the co-existence (exactly as in the case of neighboring nations limiting each other) of other bodies vested likewise with authority as in different branches of government. Furthermore the strength of these several competing authorities is derived from the opinion of the nation as to right and interest. Thus the best political system is a constitutional system, where laws rule and not men and where the powers are distributed and the authority or credit attaching to each part of the government depends upon its standing in the opinion of the people. Sometimes the loyalty of the nation is given to the monarch or executive sometimes it is given to the legislative body who are the representatives of the people and sometimes it may be given to that body which interprets the law under which all the bodies and individuals carry on their business, private and public.

To demonstrate these general truths Hume wrote a number of political essays that dealt particularly with the English constitution and the ways in which the government of the land was conducted. He began with Of the Liberty of the Press the keynote of the system since the Revolution of 1688 He then developed his ideas in Of the Independence of Parliament, Whether the British Government Inclines More to Absolute Monarchy or to a Republic, and several studies of the party system Of Parties in General "The Parties of Great Britain and "The Coalition of Parties. The respective tenets of the monarchical and republican parties were discussed in Of the Original Contract and Of Passive Obedience as well as the commonly accepted theory of government since the Revolution of 1688 in Of the Protestant Succession This se essays are illustrative of the themes argued generally in the other essays They also teach the lessons learned from English history and the values and

Ibid pp 379–380
Page 3

power vested in the executive and not lodged in the senate which could thereby prevent matters from ever reaching the floor for discussion And he cites Machiavelli A government must often be brought back to its original principles which means in this context the principle of liberty of discussion the right to meet and present grievances and thus to secure a balance among the powers of government Hume takes up a number of other details p ovid ng ca efully for representative government at every level local county national Every county he writes is a kind of republic with n itself Then as to the army which had been such a troublesome problem in the Civil War The militia is established in imitation of that of Switzerland and the appointment of its officers shall be made by the civil authority wh ch must always be superior to the army authority

The national government however wherein all such authority is lodged is the locus of the most serious problems The "higher offices of the republic must be distributed so as not to fall into the same hands The Engl sh struggle for liberty had been conducted through Parliament originally a mere council for the king and consisting of two houses, the Lords and Commons and this pattern is retained All free governments must consist of two councils, a lesser and a greater o in other wo ds of a senate nd a people

But ho wll the people discuss in an assembly?

Divide the people into many eparate bod es and then they may debate with safety Separate this great body and though every member be only of middling sense it is not probable that anything but reason can prevail over the whole

The deliverance of the good sense of the people in the voice of their rep esentative the House of Commons presupposes their own local meetings for discussion of the issues Hume recom

P ge 147
P ge 150
P ge 151
P ge 152.
P ge 153

seems probable Though it is more d fficult to form a republican government in an extensive country than in a city there is more facility v hen once it is formed of preserving it steady and uni form without tumult and faction

Such a republic may not endure forever but then nothing of this sort is ever immortal The thing to guard against is the danger arising from its very strength and success, for republics have am bition as v ell as individuals, and present interest makes men for getful of their posterity No law of the constitution can safe guard a state against the folly of conquest if the people are not mindful of these truths

On this sober note Hume concludes his pol tical essays We shall see in a later section how people of British stock in North America cast themselves for the very part that Hume had here described The first Americans, tov a d the end of the century learned at first hand how great was the difficulty of founding a republican go ernment They relied upon the r town meetings and upon local mil tia, and above all they were mindful of the faults of human nature and the ruin they can work. There was a difference of course in the overtones of the play as it was com posed and as it was acted Humes final remark was

It is a sufficient incitement to human endeavors that such a gov ernment would flourish for many ages v ithout pretend ng to bestov on any v ork of man that immo tality v hich the Almighty seems to have refused to h s own productions

But as we shall see Americans spoke another language and were impelled b other convictions.

III. THE ARGUMENT AND ILLUSTRATIONS IN THE HISTORY OF ENGLAND

As we have already noted Hume set about the writing of his *H story of En land* the very year of his success with the *Pol tical*

P ge 157
P ge 158
P g 158
Ibid

reign of James II from 1685 until the Revolution This was the period of primary interest to Hume The English constitution took its characteristic form during this turbulent century of pol cal and religious conflict. Th m wh h

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po ers the guarantee of " c between executive and liberty the moral strength of the national character and the public spirit that pulled the people through the bitterest controversies the importance of the practice of discussion and debate in the formation of public opinion and the intellectual vitality of the British genius throughout the years of tribulation of the three nations, Ireland Scotland and England Hume had here the historical evidence to support his theses in the *Essays*

It is very interesting, too that long after the *History* was published, when Hume, in retirement at Edinburgh was engaged in correcting and improvin his work for a new edition he bethought himself of an additional essay for his *Essays* a short piece entitled Of the Origin of Government In this essay he speaks of a dual necessity of mankind the need of both peace and order and liberty Both needs must always be provided for in government, and neither can be neglected save with peril Then Hume offers a very significant historical reflection

> In all governments there is a perpetual intestine struggle open or secret, between Authority and Liberty and neither of them can absolutely prevail in the contest. In this sense it must be owned that liberty is the perfection of civil society but still authority must be acknowledged essential to its very existence

In this statement Hume has made very explicit the great guiding theme of his story of England during that ill-starred Stuart regime The *History* is a demonstration of the truth that neither *authority* nor *liberty* must be allowed in the extreme, and that a

P ges 39 ff See also Letter to William Strahan (Hume publisher) March 1 1774 in *The Letters of David Hume* edited by J Y T Greig (Oxford Clarendon Press 1932) V l II p 496

P ges 41–42.

Of the Commons at the beginning of the reign of Charles I Hume reported well

The House of Commons was almost entirely governed by a set of men of the most uncommon capacity and the largest views men who were now formed into a regular party and united as well by fixed aims and projects as by the hardships wh ch some of them had undergone in prosecution of them

They were animated with a warm regard to liberty and used their undoubted privilege to grant or refuse supplies as a means of extorting concessions in favor of civil liberty Treating with a King who had so high an idea of kingly prerogative and so contemptible a notion of the rights of those popular assemblies that, "had he possessed any military force on which he could rely it is not improbable that he had governed without any regard to P rliamentary privileges, it was necessary for Parliament to curb his amb tions and resolve upon some new laws to that end Furthermore,

it was requisite to temper by the decency and moderation of their debates the rigor which must necessarily attend their determinations Nothing can give us a higher idea of the capacity of those men who now gu ded the Commons and of the great authority which they had acquired than the form ng and execut ing of so judicious and so difficult a plan of operations

They publicly declared thei grievances however speaking on behalf of the people grievances concern ng acts of power against law such as imprisonment without bail o bond and w th no leg l redress forced loans, taxation without consent of Parliament and m rtial law These declarations were formulated in a Peti tion of R ght recall ng the G eat Charter There then ensued a great debate between the partisans of the Commons and the partisans of the Cou t on personal l berty In the end the King h d to give h s assent to the petition and thereupon was voted his funds which h d been held up

The Commons ho ever were still far from sat sf ed and con

Ibid V I V Ch. L, pp 4–5
Ibid. V I V Ch L, p 20
Ibid. V I V Ch LI p 33
Ibid Vol. V Ch LI pp 33–34

arbitrary and unlimited authority into the kingdom ¹ Yet such action really meant that a new jurisdiction was erected in the nation What rendered the power of the Commons more formidable was the extreme prudence with which it was conducted Soon the whole sovereign power was in a manner transferred to the Commons, and the government, without any seeming violence or disorder changed in a moment from a monarchy almost absolute to a pure democracy At this time, too the press, freed from all fear or reserve, swarmed with productions, dangerous by their seditious zeal and calumny And Puritan preachers and lecturers had a field day The Commons encouraged the presenting of grievances and charges against private persons, and so many of these were presented that more than forty committees were set up to pass upon them never was so much multiplied, Hume comments, the use of these committees of the House ²² And the Commons themselves were again instituting one of the greatest innovations One such committee was a court of inquisition and was popularly called the Committee of Scandalous Ministers, whose proceedings were cruel and arbitrary and made great havoc both on the church and the universities Thus the mantle of arbitrary authority had now fallen on the Commons and its forty or more committees And Hume observed at this juncture that the political disputes about power and liberty which seemed so much less important to those who wrote about them at the time than the religious issues were but an example of that persistent problem in each age of the relation of authority and liberty

In the opinion of the historian the Commons had already gone too far toward authority and such a judgment was confirmed by the way they hardened their hearts against the dignified and just defense the Earl of Strafford made before his execution on charge

Ibid. V I V Ch LIV p 13
Ibid V I V Ch LIV p 133
Ibid. Vol V Ch LIV p 135
Ibid V I V Ch LIV p 137
Ibid., V I. V Ch LIV p 139
Ibid V I V Ch LIV p 144
Ibid. V I. V Ch LIV pp 144–145

tinued to carry their scrutiny into every part of government In some particulars their industry was laudable in some it may be liable to censure The Puritans parties emerged at this time they consisted of three distinct groups political Puritans "Puritans in discipline (who were opposed to the Episcopate) and doctrinal Puritans It was then too that Oliver Cromwell began to appear in the debates a future leader of the Commons but he bided his time according to Hume

Soon thereafter the Puritans finding themselves restrained in England shipped off for America and laid there the foundations of a government which possessed all the liberty both civil and religious of which they found themselves bereaved in their native country Meanwhile at home John Hampden whose spirit and courage won him popularity throughout the nation merited great renown with posterity for the bold stand which he made in defense of the laws and liberties of his country His subsequent trial was a subject of public concern and the final decision roused the whole country to the dangers to which their liberties were exposed

Scotland meanwhile was aroused too when the King attempted to impose a liturgy upon their church and from this dissension there arose the Covenanters who found them seconded by the zeal of the whole nation The leaders h e w r also men of vigor and abilities and the Commons in England were in sympathy with those refractory opposers of the King and the ministers The Scots then invaded England and enjoyed a temporary victory thanks to their zeal and unanimity and their exact discipline This brought matters to a s f r th King

The Commons proceeded to impeach the King's ministers the Earl of Strafford and Archbishop Laud on the charge of high treason for it was supposed that they had the intention of subverting the laws and constitution of England and introducing

Ibid Vol V Ch LI p 45
Ibid Vol V Ch LI p 56
Ibid Vol V Ch LII p 64
Ibid Vol V Ch LII pp 88 ff
Ibid Vol V Ch LIII pp 102 106
Ibid Vol V Ch LIII p 114

arbitrary and unlimited authority into the kingdom 11 Yet such action really meant that a new jurisdiction was erected in th nation What rendered the power of the Commons more formidable was the extreme prudence with which it was conducted Soon the whole sovereign power was in a manner transferred to the Commons, and the government without any seeming violence or disorder changed in a moment from a monarchy almost absolute to a pure democracy At this time, too the press, freed from all fear or reserve, swarmed with productions, dangerous by their seditious zeal and calumny And Puritan preachers and lecturers had a field day The Commons encouraged the presenting of grievances and charges against private persons, and so many of these were presented that more than forty committees were set up to pass upon them never was so much multiplied, Hume comments, the use of these committees of the House And the Commons themselves were again instituting one of the greatest innovations One such committee was a court of inquisition and was popularly called the Committee of Scandalous Ministers, whose proceedings were cruel and arbitrary and made great havoc both on the church and the universities Thus the mantle of arbitrary authority had now fallen on the Commons and its forty or more committees And Hume observed at this juncture that the political disputes about power and liberty which seemed so much less important to those who wrote about them at the time than the religious issues were but an example of that persistent problem in each age of the relation of authority and liberty

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Ibid V I V Ch LIV p 132.
Ibid V I V Ch LIV p 133
**Ibid.* Vol V Ch LIV p 135
Ibid V I V Ch LIV p 137
Ibid V I V Ch LIV p 139
Ibid V I V Ch LIV p 144
Ibid. V I V Ch. LIV pp 144–145

strance which has become so memorable and which was soon afterward attended with such important consequences. It was not addressed to the King, but was openly declared to be an appeal to the people

Hume comments at this point that the actual grievances cited in the remonstrance "had been already redressed and even laws enacted for future security against their return though the pra se of these advanta es was ascribed not to the King but to the Parliament, ı ho had extorted his consent to such salutary statutes. The remonstrance was but a signal therefore, for further unl mited pretensions on the part of the Commons, so that what was really intended was nothing less whatever ancient names might be preserved than an abolition almost total of the monarchical government of England Their overt plea in the remonstrance, however was this

A ght was indeed acquired to the people or rather their ancient right wa more exactly defined [in the previous pet the *power* of invading it still rem did an opport

...ssity of eliminating the monarchy

Among the "best arguments of the royalists against a further attack on the prerogative was the following

Let us bev a e, lest our encroachments, by introducing anarchy make the people seek shelter under the peaceable and despotic rule of a monarch Authority as well as liberty is requis te to government and even is requis te to the support of liberty itself by mainta ning the laws which can alone regulate and protect it What madness, while everything is so happily settled under ancient forms and institutions now more exactly poised and adjusted to try the hazard us experience of a new constitution

This refe ence by the royalists to liberty is explained later

* *Ibid* V I V Ch. LV p 192.
Ibid V I V Ch. LV pp 19.f
Ibid V I V Ch LV p 194
Ibid. V I V Ch. LV p 194
Ibid., Vol V Ch LV p 197

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> A right was i deed acqu red to the people or rather their ancient right was more exactly defined [in the previous petition] but as the power of invading it still remained to the prince, no sooner did an opportunity offer than he totally disregarded all laws and preceding engagements

Hence the necessity of elim nating the monarchy

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> Let us beware, lest our encroachments by introducing anarchy make the people seek shelter under the peaceable and despotic rule of a monarch Authority as well as liberty is requis te to government and even is requ site to the support of liberty itself by ma nta ni g the laws which can alone regulate and protect it What madness, w hile everything is so happily settled under ancient f rms and nstitutions, no w more exactly poised and adjusted to try the haza dous experience of a new constitu tion

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* Ibid V I V Ch. LV p 192
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Ibid V l V Ch LV p 194
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Ibid Vol V Ch LV p 197

> The bulk of that generous train of nobility and gentry who now attended the King in his distresses breathed the spirit of liberty as well as of loyalty and in the hopes alone of his submitting to a legal and limited government were they willing in his defense to sacrifice their lives and fortunes

The civil war came.

> The furious zeal for liberty and Presbyterian discipline [on the part of Commons] which had hitherto run uncontrolled throughout the nation now at last excited an equal ardor for monarchy and episcopacy when the intention of abolishing these ancient modes of government was openly avowed by the Parliament

Here Hume stops to pay tribute to the character of the whole nation in this war

> Fierce however and inflamed as were the dispositions of the English by a war both civil and religious that great destroyer of humanity all the events of this period are less distinguished by atrocious deeds either of treachery or cruelty than were ever any intestine discords which had so long a continuance a circumstance which will be found to reflect a great praise on the national character of that people now so unhappily roused to arms

The intestine struggle between authority and liberty the main theme of this history was to illustrate itself in further events during the course of this war and until the settlement of the Revolution in 1688

Oliver Cromwell and Sir Thomas Fairfax now rose to command and established a new model of the army where citizens and country gentlemen soon became excellent officers Hume's picture of Cromwell is that of a Machiavellian statesman

> Carried by his natural temper to magnanimity to grandeur and to an imperious and domineering polity he yet knew when necessary to employ the most profound dissimulation the most oblique and refined artifice, the semblance of the greatest moderation and simplicity A friend to justice though his public conduct was one continued violation of it devoted to religion though he

Ibid Vol V Ch LVI p 35
Ibid Vol. V Ch LVI p 41
Loc. cit.
Ibid. Vol V Ch LVII p 269

perpetually employed
engaged in
tation which

But the affa
simply one of the personal ambition of one man for Hume's theme is the inevitable march of events so that when liberty itself becomes unlimited it leads to new authority unlimited Hence the story continues

The dominion of the Parliament was of short duration No sooner had they subdued their sovereign than their own servants arose against them and tumbled them down from their slippery throne. The sacred boundaries of the laws being once violated nothing remained to confine the wild projects of zeal and ambition and every successive revolution became a precedent for that which followed it.

Thus the Council of Officers in Cromwell's army became a military Parliament.

Here commenced the encroachments of the mil
civil authority The arm
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The leaders of e army were the sect of Independents

The whole authority of the nation they imagined was now lodged in their hands and they had a near prospect of molding the government into that imaginary republic which had long been the subject of the wishes and they expected by the terror of the sword, to impose a more perfect system of liberty on the reluctant nation

The troops themselves were formed into a kind of republic and the plans of imaginary republics for the settlement of the State were every day the topics of conversation among the armed legislators Royalty it was agreed to abolish nobility must be set aside even all ranks of men be leveled and a universal equality of property as well as of power be introduced among the citizens The saints they said were the salt of the earth

Ibid. V I V Ch. LVII p 289
Ibid V I V Ch LIX p 330
Ibid V I V Ch. LIX p 334
Ibid. V I. V Ch LIX p 340
Ibid. Vol V Ch LIX, pp 346 350

tinued to carry their scrutiny into every part of government In some particulars their industry was laudable in some it may be liable to censure [12] The Puritans parties emerged at this time they consisted of three distinct groups "political Puritans "Puritans in discipline (who were opposed to the Episcopate) and doctrinal Puritans [13] It was then too that Oliver Cromwell began to appear in the debates a future leader of the Commons but he bided his time according to Hume

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[12] *Ibid* Vol V Ch LI p. 45
[13] *Ibid* Vol V Ch LI p 56
[14] *Ibid* Vol V Ch LII p 84
[15] *Ibid* Vol V Ch LII pp 88 ff
[16] *Ibid* Vol V Ch LIII pp 102, 106
[17] *Ibid* Vol V Ch LIII p 114

arbitrary and unlimited authority into the kingdom Yet such action really meant that a new jurisdiction was erected in the nation What rendered the power of the Commons more formidable was the extreme prudence with which it was conducted Soon the whole sovereign power was in a manner transferred to the Commons, and the government without any seeming violence or disorder changed in a moment from a monarchy almost absolute to a pure democracy [a] At this time, too the press freed from all fear or reserve, swarmed with productions, dangerous by their seditious zeal and calumny And Puritan preachers and lecturers had a field day The Commons encouraged the presenting of grievances and charges against private persons and so many of these were presented that more than forty committees were set up to pass upon them never was so much multiplied, Hume comments, the use of these committees of the House And the Commons themselves were again instituting one of the greatest innovations One such committee was a court of inquisition and was popularly called the Committee of Scandalous Ministers whose proceedings were cruel and arbitrary and made great havoc both on the church and the universities Thus the mantle of arbitrary authority had now fallen on the Commons and its forty or more committees And Hume observed at this juncture that the political disputes about power and liberty which seemed so much less important to those who wrote about them at the time than the religious issues, were but an example of that persistent problem in each age of the relation of authority and liberty

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Ibid V I V Ch LIV p 144
Ibid V I V Ch. LIV pp 144–145

although the sentiment in favor of outright separation from En land was plainly growing this convocation was still ruled by moderate counsels and capped its deliberations by reaffirming the allegiance of the Americans to King George His Majesty responded by declaring officially that the colonies were in a state of rebell on In retrospect, it seems hard to believe that Americans could in the face of this royal declaration continue to resist the movement for separation but it required a bomb hell to di lodge them from their position of hesitant moderation That bombshell was supplied by Thomas Pa ne who published *Common Sense* in January 17 6

For Pa ne the problem that had been vexing America was simply sol ed Government he said is based on no other justification than the freedom and security of the governed Brit sh rule o er America offered the colonists neither freedom nor security but only tyranny and exactions therefore America should renoun e allegiance to the royal brute of Great Brita n and sl ould go her own way It was an unqualified appeal to the principle of self interest to the principle of popular s vereignty rejecting as fatuous all the sentimental ties that had so f r bound America to the crown And the effect of the pamphlet was electric. Print ng presses ran night and day to supply the popular demand at least 300 000 cop es were sold in the next six months nearly every adult in the colonies had read *Com no i Se ise* or heard it read to him Everywhere t con erted its readers to the caus of independ nce It produced almost overnight a wave of antimonarchical feel ng that was not to abate until the question of monarchy had become academic n America It tore away the fabric f veneration toward the motherland that had existed for mo e than a century When the smoke had cleared it was e ident that the popular will in America was at last firmly set on a revolutionary course

Paine und ubtedly kindled the spark that led finally to outright rebell on and sej aration His contempt for tradition his stra ghtforward appeal to the unadorned princij le of popular

and America interdicted and the clash of arms resounding along the eastern seaboard the oppos

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ilson supported by James Wilson and others leading the opposition On June 10 the debate was recessed for three weeks so that the delegates could return to their states for new instructions Meantime a committee was designated to draw up a Declaration of Independence so as to have it ready in case the final decision in favor of separation was made The committee consisted of Benjamin Franklin John Adams Roger Sherman Robert Livingston and Thomas Jefferson who was made chairman Its members discussed the general character of the appeal that should be produced and then asked Jefferson to compose it In two days Jefferson had completed the task on July 2 the Congress voted to pass Lee s resolution of independence and on July 4 the Declaration itself was issued to a candid world.

The document that issued from Jefferson s felicitous pen was a mirror of the contemporary American spirit In later years Jefferson himself said that he had simply been trying to place before mankind the common sense of the subject in terms so plain and firm as to command their assent it was intended to be an expression of the American mind And that is indeed what it was Its list of grievances was a recapitulation of the controversies of the preceding decade its basic premises were a compound of popular political philosophy and concrete American experience.

What were these premises? First there was the concept of natural law as the fundamental basis for the rights asserted a concept implicit in Jefferson invocation of the laws of nature and of Nature s God. To Jefferson and his like minded contemporaries there was nothing strange in the assertion that the truths of the Declaration were self-evident. The ancient and essentially ethical tradition of natural law stemming from Cicero and his predecessors had merged in American

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their experience On the frontier which lay only a few short miles from the doors of even urban Americans artificial distinctions bet een men tended to dissolve in the common struggle for subs stence

Secondly it is self-evident that men are endowed ith the unalienable right to life liberty and the pursuit of happiness Aga n as with all of this it is only necessary to turn to Locke to find the point of reference Jefferson later said that when he rote the Declaration he referred to no book not even Locke s *S cond Treatise* and this fact is a measure of that book s influence on him and his contemporaries The ideas and even the phrases of Locke had become so deeply imbedded in the thinking of educated Americans of the period that they came to mind unbidden Even Jefferson s use of the pursuit of happiness as the third term in the triumvirate of bas c rights instead of Locke s term estate [1] was not, as has been pointed out above necessarily a departure in meaning Stylist cally pursuit of happ ness is unquestionably better and it may have been no more than an instinct for a graceful pl rase that caused the substitution

From here on the philosophy of the Declaration follows the classic eighteenth-century line S nce these rights cannot be maintained in practice without social organizat on men agree by social compact to establish a government to secure them Thus the pr nciple of popular consent is introduced Since th s consent based go ernment has no justification beyond the protect on of r ghts it follows that consent must be with dra n if the g ernment fa ls to defend the rights of the governed So the r ght of revolut on is reasserted It remains then merely to demon trate n a catalog of grievances that George III and h s government have left bas c rights unprotected and have even taken positive action to encroach on them And the argumentative circle is complete the moral warrant for the revolut n is ind sputably plain

Thi then was the Declarat on of Independence this was the Spir t of 6 At first glance it might seem that it was

[1] See o p xi.

for governing American external affairs but it was impossible to avoid the hard fact that external policy still had to be considered. Accordingly Congress began almost immediately after the Declaration to formulate a plan for conduct of the joint affairs of the colonies. In July 1777 the Articles of Confederation were submitted to the states and within two years all the states except Maryland had ratified. Maryland withheld her approval until March 1781 not because of distaste for the general provisions of the Articles but because her citizens felt that certain western lands claimed by Virginia Pennsylvania Massachusetts New York and Connecticut should be ceded to the nation

The form of government established by the Articles of Confederation was not very different from the informal arrangement that had developed during the Revolution Congress was composed of delegates chosen by each state in whatever manner it might choose and each state delegation was entitled to one vote Although such institutions as a separate executive authority and a bicameral legislature were commonplace in the state governments of the day neither of these characteristic principle of later American constitutional theory was embodied in the Articles Congress was a single unit and the President provided for in Article IX was merely its presiding officer Executive power was wielded by various committees at first appointed on an indiscriminate *ad hoc* basis but in 1781 to some extent integrated by the establishment of permanent departments of Foreign Affairs Treasury War and Marine Congress was endowed with the power to make war and peace to conduct foreign affairs to regulate the Indian tribes to coin money and to establish a post office A limited judicial function is reflected in the authority of Congress to establish tribunals to deal with interstate disputes and with certain issues of marine law

The nature of these arrangements suggests that America looked upon the government under the Articles as a sort of diplomatic assembly presiding over a league of otherwise independent states and this description is confirmed by other pro-

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The states for example retained the power to make their own commercial regulations and the nat o
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for carrying on its operations j taxes in order to obtain funds dependent upon requisitions against the states the national government was

But mportant as v ere these omissions from the catalog of federal powers under the Art cles of Confederation the fatal weakness of the national government was a more general one —that it had no sanctions to enforce the powers that were granted to it or to compel the states to conform to a n pattern This deficiency i n
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ers in fact they hono ed the national government s requ sitions when they chose to and breached them v hen they preferred Nothing could be done to make the states comply if they were reluctant to do so actual coercion of the states by the nat onal government was untl inkable even if it had been possible for the average American thou ht of himself as a V rgin an or a New Y rker f rst and as an American second And the central government was equally ill armed to enforce confederation laws against citizens ma nly because the Art cles h d failed to provide for a federal judiciary Adherence to confede ation laws was supposed to be enforced by the courts of the states but these tribunals were subject to no over r ding appellate autl ority This meant that they could follow national laws or ignore them depending on their own prefe ences

Tl ese faults in the system of government establ hed by the Articles f Confederat on were reflected in the h story of the per od The debt contracted during the Revolut on remained unpaid and this was felt by the many bou geois-minded among the colonist to constitute a cont nuing reproach to na t onal honor Great B ta n discrim nated against American merchant ship and tl e government of the United States was

and Gerry were won over to the Anti Federalist party of Jefferson But for the time being they were commonly devoted to the cause of national union The Federalists sought a revolution that would break the bonds with the mother country to that end they had embraced the principle of republicanism as their moral justification But the revolution they had envisioned was intended to preserve as well as innovate it was meant to enshrine not only the will of the people but also the sober virtues of the Anglo-American middle class tradition And now it seemed they were faced with a peril which as Americans they deeply dreaded—the peril that one principle might become predominant that the nation might be forced to choose between the tradition and the people They faced or thought they faced a danger which would be known throughout the world a few years later as Jacobinism

Fortunately for the future of American union the faction in the colonies which was most stirred by these fears consisted of those who by heredity and training were the natural leaders of the new nation Whether or not the nascent democratic movement contained the seeds of Jacobinism it certainly did constitute a powerful disunionist force and the conservative leaders of opinion who had helped make the Revolution now set themselves the task of preventing it from realizing these twin potentials The democratic spirit whose excesses they dreaded was in fact only half formulated and ill-supplied with men to plead its cause and the result was that the traditional leaders of the community were able to carry through a successful program for establishing union and mitigating the dangers of unchecked popular rule

Yet it would be a serious mistake (though it is one frequently made) to interpret the movement for union and the eventual establishment of the National Constitution as a counter revolution in the profound sense as a Thermidorean reaction So to regard this development is to misunderstand both the nature of the American community of the 1780s and the character of its leaders The democratic drive that found expression in stay laws and tender acts was disturbing to

derstanding the work of the Convention The most important compromise from the viewpoint of those who attended the Convention was the agreement as to the method for choosing the House of Representatives and the Senate the two legis lative bodies of the proposed government. The delegation from Virgin a had come to the Convention armed with a plan which had probably been drafted by James Madison [1] This plan was startlingly radical it ignored the assumption that the delegates were assembled to consider revisions to the Ar ticles of Confederation and boldly set forth an entirely new structure of government that suggested government was frankly nationalist c sharply in contrast to the loose confed eration of the past. No doubt the Virginia proposal was a part of the program of the advocates of unionism a calcu lated attempt to d slodge the principle of states rights at the outset and to some extent it accomplished its purpose Those who might have hes tated to depart from th decentralization of the Articles were comforted when they did so by the re flect on that the Virginia Plan would have gone much farther But the V rgin a proposal also ra sed one of the bitterest is sues of the c nvent on s nce it provided that both Houses of Congress be chosen on the basis of population This would mean that a fe large states among them of course Virginia tself would enjoy a commanding voice in the new govern ment and the smaller states objected strenuously They coun t red with the New Jersey Plan [2] a much more modest pro posal for revis ng the Articles which would have preserved the autonomy of the states as the basic principle of the new system and fo a time the Convention deadlocked on this issue The final compromise—the Great Compromise —was to g ve the states equal rep esentation in the Senate while re taining the principle of representation by population in the

[1] Alth gh th pl as ficially bm ted to th Conventi by R d lph Cf. both "Th Virgi Pl Reported by th Comm tee f the Wh l nd "Th Virg nia Pla as Offered b R ndolph pri ed pp ff

[2] Cf pp 30ff

Congress would not use the commerce power to interfere with the importation of slaves until 1808 (Article I Section 9) and the agreement for choosing the President by electoral vote in the first instance and by individual vote of the states if no candidate receives a majority (Article II Section 1) Since the first of these became of historical interest only in 1808 and since as far as the second is concerned the rise of political parties made it almost academic, neither of these compromises can be regarded as involving issues of very great moment The conclusion seems inescapable that the controversies of the Convention were comparatively trivial in their main concerns

When we turn to consider the matters over which controversy did *not* rage the explanation of this fact becomes apparent. When we enumerate the issues on which there was no need to compromise because there was little or no substantial disagreement the real nature of the constitutional movement becomes plain The startling fact is that the Convention was in almost solid agreement on the basic presumptions of political science which were to form the cornerstones of the new constitutional structure and their concord on these presumptions was far more significant than their disagreements on the matters that led to the compromises To begin with the delegates assumed from the first that the form of the government would be republican by which they meant that it would find its great source of power in the people Some of the delegates as has been suggested wished to see democracy controlled some were inordinately fearful of majority tyranny and distrustful of popular judgments This was certainly the attitude of Hamilton and Gouverneur Morris two of the ablest and most vocal delegates and it was shared in varying degrees by such members as William Randolph of Virginia and Elbridge Gerry of Massachusetts All of the states at this time imposed some restrictions on the right of suffrage and most of them required a property qualification for voting. There is no doubt that many of the Convention's delegates would have been pleased to see such restrictions embodied in the Federal Constitution and were deterred mainly

ically inclined had found confirmation for their bias in favor of separation of powers in the writings of Montesquieu and in those of their own John Adams and Thomas Jefferson. By 1787 the principle was an axiom beyond serious dispute in America and it would have been quite unthinkable to present a frame of government which did not divide the executive from the legislative and both from the judicial powers.

Nor was there need to compromise on the question as to whether the new Constitution was to be "the supreme law of the land." As has been suggested above, the most serious defect of the Articles of Confederation had been their failure to provide the central government with a means for enforcing its commands. The result was that the national government was in practice inferior to the member states even as to the purposes of the union. Now the Convention with very little argument took the all important steps of asserting the supremacy of the national government and its laws (Article VI Section) and of providing a means—the Federal judiciary—by which that supremacy could be implemented by enforcing the national commands against individuals. It is impossible to exaggerate the significance of this dual innovation. The supremacy clause has been called "the linchpin of the Constitution," and it is indeed hard to imagine that a national government could have been established without it. The authority to act directly on individuals in collecting taxes and enforcing laws was a new departure in the practice of federalism. Yet neither of these advances gave rise to serious controversy within the Convention hall.

The basic agreement among the delegates was even more striking when they turned to consider those sections of the Constitution that had most directly to do with property rights and commercial relations. As has already been suggested, there was at the time a fairly clear-cut split between the interests of land holding debtors on the one hand and merchant creditors on the other; the former group had been inclined to advocate soft money and a relaxation of creditors' rights. But no such division of opinion was apparent among the mem

struggle a sober serious property-conscious well informed even scholarly minority These men knew what they wanted when they essayed the task of constitution making just as they had known what they wanted when they donned the garb of revolutionaries. They had wanted (remarkable conception!) a moderate revolution whose moral justification would be found both in the will of the people and in the constitutional tradition a revolution which would disturb the status quo only so much as they felt it ought to be disturbed Reckless of strict logic pragmatic to the core they had incorporated in their revolutionary ideology the most disparate principles secure in the confidence that they could make th ... of half a-dozen different worlds \ ... conf ... ica ... that vil ... Amer ... ecks and balances ... tion they had created was certain to become the instrument of majority rule Yet the very instrument that drew its power from the people laid down restrictions on the popular will a result which might sound to a logician very much like nonsense So likewise with the power granted to the central government—on the one hand it was desired to strengthen it substantially on the other hand too strong a government was traditionally dreaded in America The solution was characteristic the government was revitalized by granting it broad powers and at the same time weakened by institutionalizing rivalry between its main branches The separation of powers principle was carefully calculated to prevent a majority from seizing power and using it without restriction The enumeration of national powers meant that the government even in the hands of a majority was denied the right to exercise powers *not* enumerated Sections nine and ten of Article I were crowded with prohibitions against the national government and the states respectively And although a formal Bill of Rights was not appended to the original document the addition of this safeguard against unchecked power (whether in the hands of the majority or not) was approved by most of those who had participated in the Convention. Finally the

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almost uni ersal veneration for the nes organic law suggested that the instrument created in 1787 was however lacking in logical symmetry an appropriate frame of government for a nat on more concerned with results than with logic.

The struggle over ratification was intense and even bitter but the most striking thing about it is the comparative im potence of those who opposed the new Constitution That they were in a majority in most of the states seems plain enough but their preponderance was purely numerical. Both argumentat ely and strategically their opponents enjoyed a clear advantage By far the most powerful anti federalistic argument was based on the curious fact that the Convention had failed to include a Bill of Rights in the proposed consti tut on Considering the American preoccupation with the con cept of fundamental rights discussed above and the standard practice of appending Bills of Rights to the state constitutions th s om ssion stands forth as the one great tactical miscalcula t on of the Con ention Apparently the delegates thought that a detailed list of limitat ons on the federal government was unnecessary since the powers of the government were already restricted by the principle of delegation (this was the concept, impl cit in the Constitution and ultimately made explicit in the Tenth Amendment that the national government could exercise only the powers enumerated in the Constitution wh le all other po ers were reserved to the states) But this argument—wrong n any case as the history of the necessary and proper clau e Article I Sect on 8 Paragraph 18 was t show—was too subtle for most voters and the anti federalists were able to argue that the omiss on betrayed an intention to sub ert the l berties of the people Much of the wind was drawn f om the sa ls of this argument however when it was agreed that a B ll of Ri hts along traditional American lines would be added by the first sess on of Congress under the new government and in some key states this was made in effect a cond tion f rat fication

Apart from this issue the polemical weapons in the anti federalist arsenal were relatively few and ineffective as com

the Federalists outmaneuvered their opponents time after time The ratification of the Constitution like its composition was a tribute to the leadership qualities of the class that had piloted America throughout these first stormy years of her national history

Ratification having been achieved by the narrowest of margins and against the preferences of what seems to have been a majority in the nation its aftermath is all the more remarkable Not all the wounds opened by the ratification struggle were easily healed and this was especially true of the central issue the problem of states rights The idea of decentralization had been espoused by a faction calling themselves Anti Federalists and it chanced that this group was also in general composed of men who were more sympathetic to popular government than were many of the Federalists States rights thus became identified in the popular mind with the democratic spirit and the alliance created vast difficulties in the years to come since the cause of state sovereignty was able to draw support from the cause of democracy The Anti Federalists hard up for leaders in the ratification controversy soon found them in men like Thomas Jefferson James Madison George Clinton of New York and Albert Gallatin of Pennsylvania. As the group around Hamilton demonstrated their predilection in favor of the mercantile interests of the Eastern seaboard this Jeffersonian faction claimed the allegiance of the landed interests of the South and West so that states rights populism and agrarianism were forged into a powerful alliance This triple entente was not only the basis for Jefferson s party (now renamed Republican) It was also the basis of an alignment in American political doctrine that persisted with more or less vitality until the Civil War and in fact still revives from time to time in the modern era Thus the ratification controversy can be said to have set the patterns of American political factionalism for many years to come But the Constitution itself the supposed object of contention was warmly embraced. In a few years almost in months the vestiges of opposition to the new Constitution

assumption that it is possible to ride both horns of most dilemmas In a world of deep and irresolvable conflicts legalism can have only a limited place since the questions that divide society transcend the issue of legality But in a nation which is convinced that inconsistency is tolerable legalism becomes king The *ad hoc* contingent process of judicial exclusion and inclusion is appropriate to cope with a society which has refused to decide that a single principle of politics shall be its central guide and has preferred to embrace several principles indiscriminately

III THE DOCUMENTS AS EXPRESSIONS OF POLITICAL IDEAS

The American Commonwealth has come a long way since the days when the thirteen former Colonies gave themselves the Constitution after adopting the Declaration of Independence In writing its provisions the framers were not at all sure how long it would last At the end of *The Federalist* David Hume is cited as authority for the risks involved in constitution making

> To balance a large state or society on general laws (meaning a constitution) is a work of so great difficulty that no human genius however comprehensive is able by the mere dint of reason and reflection to effect it The judgments of many must unite in the work experience must guide their labor time must bring it to perfection and the feeling of inconveniences must correct the mistakes which they *inevitably* fall into in their first trials and experiments[1]

If anyone had shown them a vision of the United States in the twentieth century they would have been surprised and

[1] Italics Hamilton's ed *The Federalist* No. 85 (New York Putnam 1888) p 5 1

itable and there have been times when it seemed that the contrast in their aims made them basically incompatible

So it appeared for example to the old line proponents of states rights in the early years of the nineteenth century when the Supreme Court under the Chief Justiceship of the great John Marshall bent itself to the task of welding the young republic into a true nation Marshall asserted and maintained the supremacy of the national court over the courts of the states when federal questions were involved he upheld such national legislation as the act incorporating the Bank of the United States in spite of the charge that Congress had here exceeded its constitutional powers and he struck down state laws which threatened to fragmentize the national structure To advocates of states rights like John Randolph of Roanoke and John Taylor of Caroline these *dicta* represented a darkly ominous threat to liberty and Randolph was moved to say

> if with the most approved spring lancets you draw the last drop of blood from our veins if *secundum artem* you draw the last shilling from our pockets what are the checks of the Constitution to us? A fig for the Constitution When the scorpion s sting is probing us to the quick shall we stop to chop logic? [1]

Nevertheless the views of the Chief Justice prevailed the cause of national union was greatly fortified by Marshall s forthright pronouncements And as time wore on more and more Americans began to feel that the choice Randolph and Taylor had propounded between liberty and union was a false one and that the proper course for the United States was that suggested by a famous peroration of Daniel Webster Liberty *and* Union now and forever one and inseparable! In short, it was felt at least in the North that the old equation of freedom with state autonomy was a false one and that

[1] Henry Adams *John Randolph* ed John T Morse Jr (Boston Houghton Mifflin & Co 1890) p 279

[2] *Selected Speeches of Daniel Webster* Preface and Introduction by A. J George (Boston D C. Heath & Co 1911) p [illegible]31

ers Out of this welter of idealism and casuistry only one fact really emerged clearly that the American Constitution was face to face with its severest test. For once the traditional American faith that conflicts would resolve themselves within the structure of constitutionalism was proved groundless, and it took the bitter and bloody Civil War to establish beyond further argument that chattel slavery would go and the union would survive

The Northern victory made it clear as the Constitution had not, that the American nation was in the phrase of Chief Justice Chase an indestructible union of indestructible states But the triumph of the North was also the triumph of industrialism and the problem of conflict between the Declaration and the Constitution soon presented itself in a new guise. In the hands of a business minded Supreme Court, the Constitution was converted in the later years of the nineteenth century into a charter of economic rights for corporate enterprise and with the help of the due process clause of the Fourteenth and Fifth Amendments and the commerce clause of Article I the federal judges frustrated reformist efforts to clear the way for pursuit of happiness which the Declaration had promised Meanwhile the protection of Negro rights which the North had attempted to insure through the passage of the Thirteenth Fourteenth and Fifteenth Amendments was minimized by judicial decision

But in the 1930 s the course of constitutional interpretation underwent still another change The Fourteenth Amendment ceased being used by the Court to stifle economic experimentation and became instead a guarantee of individual freedoms such as speech press, and a fair trial against action by the state and the commerce clause became as it had been for Marshall a grant of power to the national government rather than a limitation With these developments it might be said that the Declaration and the Constitution moved closer together than they had even been before The inevitable gap between ideal and working system still existed to underline the fact that the source of a model political order is to be

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in the field of federalism, of judicial review and other items, especially in the field of human rights Finally and still more recently the drafters of a constitution for a European Community have utilized extensively the experience of the United States as a measuring rod by which to test their own plans and proposals

The demonstrative and educational value of the Declaration of Independence and of the Constitution results however f om an indirect influence upon constitutional developments which were local and autonomous But there is a wider arena in which the constitutional tradition of the United States has achieved world significance When President Wilson set forth the plan for a League of Nations—a plan which was nurtured by a group of pr vate organizations deeply imbued with this trad tion—he actually projected onto the world plane the thinking which had been embodied in America s constitutional documents The fact that the League failed has dimmed the vis on wh ch animated its builders Characteristically its con stitution was called a covenant It was in the tradition of re publicanism and constitutionalism as cherished at the time of the Amer can revolution This is not the place to explore the reasons for its failure The establishment of the United Na ions proved this failure to be a temporary one anyhow For he Un ted Nat ons i another and perhaps a more vigorous prout from the same root. It too is in l ne with the basic e of onstituti nal sm Its Declarat on of Universal Human ight wh le at p esent neither enforced nor enforceable clearly demonstrates the forward march of the inherent ideas Nor sh uld we be unduly concerned about the temporary unen forceab l ty have previous bills of right been fully or even app ox mately enf ced The United States has been at work for over a cent ry and a half trying to make its bill of rights w rk great strides have been made but the ideal is far from be ng a reality

Preci ely because there culminate in these great American doci ments trends which the accumulated dross of European gove nment and privileged status would not allow to come to

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THE DECLARATION OF INDEPENDENCE

[July 4 1776]

The unanimous Declaration of the thirteen united States of America

WHEN IN THE COURSE OF HUMAN EVENTS it becomes necessary for one people to dissolve the political bands which have connected them with another and to assume among the Powers of the earth the separate and equal station to which the Laws of Nature and of Nature's God entitle them a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation

We hold these truths to be self-evident that all men are created equal that they are endowed by their Creator with certain unalienable Rights that among these are Life Liberty and the pursuit of Happiness That to secure these rights Governments are instituted among Men deriving their just powers from the consent of the governed That whenever any Form of Government becomes destructive of these ends it is the Right of the People to alter or to abolish it and to institute new Government laying its foundation on such principles and organizing its powers in such form as to them shall seem most likely to effect their Safety and Happiness Prudence indeed will dictate that Governments long established should not be changed for light and transient causes and accordingly all experience hath shown that mankind are more disposed to suffer while evils are sufferable than to right themselves by abolishing the forms to which they are accustomed But when a long train of abuses and usurpations pursuing invariably the same Object evinces a design to reduce them under absolute Despotism it is their right, it is their duty to throw off such Government and to provide new Guards for their future security—Such has been the patient sufferance of these Colonies

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tenure of their offices and the amount and payment of their salaries

He has erected a multitude of New Offices and sent hither swarms of Officers to harass our People and eat out their substance

He has kept among us in times of peace Standing Armies without the Consent of our legislature

He has affected to render the Military independent of and superior to the Civil Power

He has combined with others to subject us to a jurisdiction foreign to our constitution and unacknowledged by our laws giving his Assent to their acts of pretended legislation

For quartering large bodies of armed troops among us

For protecting them by a mock Trial from Punishment for any Murders which they should commit on the Inhabitants of these States

For cutting off our Trade with all parts of the world

For imposing taxes on us without our Consent

For depriving us in many cases of the benefits of Trial by Jury

For transporting us beyond Seas to be tried for pretended offences

For abolishing the free System of English Laws in a neighbouring Province establishing therein an Arbitrary government and enlarging its Boundaries so as to render it at once an example and fit instrument for introducing the same absolute rule into these Colonies

For taking away our Charters abolishing our most valuable Laws and altering fundamentally the Forms of our Governments

For suspending our own Legislature and declaring themselves invested with Power to legislate for us in all cases whatsoever

He has abdicated Government here by declaring us out of his Protection and waging War against us

He has plundered our seas ravaged our Coasts burnt our towns and destroyed the lives of our people.

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John Hancock.

New Hampshire

Josiah Bartlett
Wm Whipple
Matthew Thornton

Massachusetts Bay

Saml. Adams
John Adams
Elbridge Gerry
Robt Treat Paine

Rhode Island

Step Hopkins
William Ellery

Connecticut

Roger Sherman
Samuel Huntington
Wm Williams
Oliver Wolcott

New York

Wm Floyd
Phil. Livingston
Frans Lewis
Lewis Morris

New Jersey

Richd Stockton
Jno Witherspoon
Fras. Hopkinson
John Hart
Abra. Clark

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JOHN HANCOCK

New Hampshire

JOSIAH BARTLETT
WM WHIPPLE
MATTHEW THORNTON

Massachusetts Bay

SAML. ADAMS
JOHN ADAMS
ELBRIDGE GERRY
ROBT TREAT PAINE

Rhode Island

STEP HOPKINS
WILLIAM ELLERY

Connecticut

ROGER SHERMAN
SAM'EL HUNTINGTON
WM WILLIAMS
OLIVER WOLCOTT

New York

WM FLOYD
PHIL. LIVINGSTON
FRANS LEWIS
LEWIS MORRIS

New Jersey

RICHD STOCKTON
JNO WITHERSPOON
FRAS HOPKINSON
JOHN HART
ABRA. CLARK

ARTICLES OF CONFEDERATION

[November 15 1777]

To all to whom these Presents shall come we the undersigned Delegates of the States affixed to our Names send greeting

WHEREAS THE DELEGATES of the United States of America in Congress assembled did on the fifteenth day of November in the year of our Lord One Thousand Seven Hundred and Seventy-seven and in the Second Year of the Independence of America agree to certain articles of Confederation and perpetual Union between the States of Newhampshire Massachusetts bay Rhodeisland and Providence Plantations Connecticut New York New Jersey Pennsylvania Delaware Maryland Virginia North-Carolina South-Carolina and Georgia in the Words following viz

ARTICLES OF CONFEDERATION AND PERPETUAL UNION BETWEEN THE STATES OF NEWHAMPSHIRE MASSACHUSETTS-BAY RHODEISLAND AND PROVIDENCE PLANTATIONS CONNECTICUT NEW YORK NEW JERSEY PENNSYLVANIA DELAWARE MARYLAND VIRGINIA NORTH CAROLINA SOUTH CAROLINA AND GEORGIA

ARTICLE I The stile of this confederacy shall be "The United States of America.

ARTICLE II Each State retains its sovereignty freedom and independence and every power jurisdiction and right which is not by this confederation expressly delegated to the United States in Congress assembled.

ARTICLE III The said States hereby severally enter into a firm league of friendship with each other for their common defence the security of their liberties and their mutual and general welfare binding themselves to assist each other against all force offered to or attacks made upon them or

capable of being a delegate for more than three years in any term of six years nor shall any person being a delegate be capable of holding any office under the United States for which he or another for his benefit receives any salary fees or emolument of any kind.

Each State shall maintain its own delegates in a meeting of the States and while they act as members of the committee of the States

In determining questions in the United States in Congress assembled each State shall have one vote

Freedom of speech and debate in Congress shall not be impeached or questioned in any court or place out of Congress and the members of Congress shall be protected in their persons from arrests and imprisonments during the time of their going to and from and attendance on Congress except for treason felony or breach of the peace

ARTICLE VI No State without the consent of the United States in Congress assembled shall send any embassy to or receive any embassy from or enter into any conference agreement alliance or treaty with any king prince or state nor shall any person holding any office of profit or trust under the United States or any of them accept of any present emolument office or title of any kind whatever from any king prince or foreign state nor shall the United States in Congress assembled or any of them grant any title of nobility

No two or more States shall enter into any treaty confederation or alliance whatever between them without the consent of the United States in Congress assembled specifying accurately the purposes for which the same is to be entered into and how long it shall continue

No State shall lay any imposts or duties which may interfere with any stipulations in treaties entered into by the United States in Congress assembled with any king prince or state in pursuance of any treaties already proposed by Congress to the courts of France and Spain

No vessels of war shall be kept up in time of peace by any

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that shall be incurred for the common defence or general welfare and allowed by the United States in Congress assembled shall be defrayed out of a common treasury which shall be supplied by the several States in proportion to the value of all land within each State granted to or surveyed for any person as such land and the buildings and improvements thereon shall be estimated according to such mode as the United States in Congress assembled shall from time to time direct and appoint.

The taxes for paying that proportion shall be laid and levied by the authority and direction of the Legislatures of the several States within the time agreed upon by the United States in Congress assembled

ARTICLE IX The United States in Congress assembled shall have the sole and exclusive right and power of determining on peace and war except in the cases mentioned in the sixth article—of sending and receiving ambassadors—entering into treaties and alliances provided that no treaty of commerce shall be made whereby the legislative power of the respective States shall be restrained from imposing such imposts and duties on foreigners as their own people are subjected to or from prohibiting the exportation or importation of any species of goods or commodities whatsoever—of establishing rules for deciding in all cases what captures on land or water shall be legal and in what manner prizes taken by land or naval forces in the service of the United States shall be divided or appropriated—of granting letters of marque and reprisal in times of peace—appointing courts for the trial of piracies and felonies committed on the high seas and establishing courts for receiving and determining finally appeals in all cases of captures provided that no member of Congress shall be appointed a judge of any of the said courts

The United States in Congress assembled shall also be the last resort on appeal in all disputes and differences now subsisting or that hereafter may arise between two or more States concerning boundary jurisdiction or any other cause what

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judges of the supreme or superior court of the State where the cause shall be tried well and truly to hear and determine the matter in question according to the best of his judgment without favour affection or hope of reward provided also that no State shall be deprived of territory for the benefit of the United States.

All controversies concerning the private right of soil claimed under different grants of two or more States whose jurisdiction as they may respect such lands and the States which passed such grants are adjusted the said grants or either of them being at the same time claimed to have originated antecedent to such settlement of jurisdiction shall on the petition of either party to the Congress of the United States be finally determined as near as may be in the same manner as is before prescribed for deciding disputes respecting territorial jurisdiction between different States

The United States in Congress assembled shall also have the sole and exclusive right and power of regulating the alloy and value of coin struck by their own authority or by that of the respective States—fixing the standard of weights and measures throughout the United States—regulating the trade and managing all affairs with the Indians not members of any of the States provided that the legislative right of any State within its own limits be not infringed or violated—establishing and regulating post-offices from one State to another throughout all the United States and exacting such postage on the papers passing thro the same as may be requisite to defray the expenses of the said office—appointing all officers of the land forces in the service of the United States except regimental officers—appointing all the officers of the naval forces and commissioning all officers whatever in the service of the United States—making rules for the government and regulation of the said land and naval forces and directing their operations

The United States in Congress assembled shall have authority to appoint a committee to sit in the recess of Congress to be denominated a Committee of the States and to consist

time of peace nor enter into any treaties or alliances nor coin money nor regulate the value thereof nor ascertain the sums and expenses necessary for the defence and welfare of the United States or any of them nor emit bills nor borrow money on the credit of the United States, nor appropriate money nor agree upon the number of vessels of war to be built or purchased or the number of land or sea forces to be raised nor appoint a commander in chief of the army or navy unless nine States assent to the same nor shall a question on any other point except for adjourning from day to day be determined unless by the votes of a majority of the United States in Congress assembled.

The Congress of the United States shall have power to adjourn to any time within the year and to any place within the United States so that no period of adjournment be for a longer duration than the space of six months and shall publish the journal of their proceedings monthly except such parts thereof relating to treaties alliances or military operations as in their judgment require secrecy and the yeas and nays of the delegates of each State on any question shall be entered on the journal when it is desired by any delegate and the delegates of a State or any of them at his or their request shall be furnished with a transcript of the said journal except such parts as are above excepted to lay before the Legislatures of the several States

ARTICLE X The committee of the States or any nine of them shall be authorized to execute in the recess of Congress such of the powers of Congress as the United States in Congress assembled by the consent of nine States shall from time to time think expedient to vest them with provided that no power be delegated to the said committee for the exercise of which by the articles of confederation the voice of nine States in the Congress of the United States assembled is requisite

ARTICLE XI Canada acceding to this confederation and joining in the measures of the United States shall be ad

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the United States or any of them nor emit bills nor borrow
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money nor agree upon the number of vessels of war to be
built or purchased or the number of land or sea forces to be
raised nor appoint a commander in chief of the army or
navy unless nine States assent to the same nor shall a ques-
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In witness whereof we have hereunto set our hands in Congress Done at Philadelphia in the State of Pennsylvania the ninth day of July in the year of our Lord one thousand seven hundred and seventy-eight and in the third year of the independence of America.

On the part & behalf of the State of New Hampshire

JOSIAH BARTLETT
JOHN WENTWORTH Junr
August 8th 1778

On the part and behalf of the State of Massachusetts Bay

JOHN HANCOCK
SAMUEL ADAMS
ELBRIDGE GERRY
FRANCIS DANA
JAMES LOVELL
SAMUEL HOLTEN

On the part and behalf of the State of Rhode Island and Providence Plantations

WILLIAM ELLERY
HENRY MARCHANT
JOHN COLLINS

On the part and behalf of the State of Connecticut

ROGER SHERMAN
SAMUEL HUNTINGTON
OLIVER WOLCOTT
TITUS HOSMER
ANDREW ADAMS

On the part and behalf of the State of New York

JAS DUANE
FRA. LEWIS
GOUV MORRIS
WM DUER

On the part and in behalf of the State of New Jersey Novr 26 1778

JNO WITHERSPOON
NATHL SCUDDER

On the part and behalf of the State of Pennsylvania

ROBT MORRIS
DANIEL ROBERDEAU
JNO BAYARD SMITH
WILLIAM CLINGAN
JOSEPH REED 22d July 1778

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JOSEPH REED 22d July
1778

THE BASIC DOCUMENTS

II

THE CONSTITUTION IN THE MAKING

RESOLUTION OF CONGRESS

[*February 21 1787*]

WHEREAS THERE IS PROVISION in the Articles of Confederation & perpetual Union for making alterations therein by the Assent of a Congress of the United States and of the legislatures of the several States And whereas experience hath evinced that there are defects in the present Confederation as a means to remedy which several of the States and particularly the State of New York by express instruction to their delegates in Congress have suggested a convention for the purposes expressed in the following resolution and such Convention appearing to be the most probable means of establishing in these states a firm national government

Resolved that in the opinion of Congress it is expedient that on the second Monday in May next a Convention of delegates who shall have been appointed by the several states be held at Philadelphia for the sole and express purpose of revising the Articles of Confederation and reporting to Congress and the several legislatures such alterations and provisions therein as shall when agreed to in Congress and confirmed by the states render the federal constitution adequate to the exigencies of Government & the preservation of the Union

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THE VIRGINIA PLAN AS OFFERED BY RANDOLPH

[May 29 1787]

1 RESOLVED That the articles of Confederation ought to be so corrected and enlarged as to accomplish the objects proposed by their institution namely common defence security of liberty and general welfare

2 RESOLVED therefore That the rights of suffrage in the National Legislature ought to be proportioned to the Quotas of contribution or to the number of free inhabitants as the one or the other rule may seem best in different cases

3 RESOLVED That the National Legislature ought to consist of two branches

4 RESOLVED That the members of the first branch of the National Legislature ought to be elected by the people of the several States every   for the term of   to be of the age of   years at least to receive liberal stipends by which they may be compensated for the devotion of their time to public service to be ineligible to any office established by a particular State or under the authority of the United States except those peculiarly belonging to the functions of the first branch during the term of service and for the space of   after its expiration to be incapable of re-election for the space of   after the expiration of their term of service and to be subject to recall

5 RESOLVED That the members of the second branch of the National Legislature ought to be elected by those of the first out of a proper number of persons nominated by the individual Legislatures to be of the age of   years at least to hold their offices for a term sufficient to ensure their independency to receive liberal stipends by which they may be compensated for the devotion of their time to public service and to be ineligible to any office established by a particular State or under the authority of the United States except those pe-

cularly belonging to the functions of the second branch during the term of service and for the space of after the expiration thereof

6 RESOLVED That each branch ought to possess the right of originating Acts that the National Legislature ought to be impowered to enjoy the Legislative Rights vested in Congress by the Confederation and moreover to legislate in all cases to which the separate States are incompetent or in which the harmony of the United States may be interrupted by the exercise of individual Legislation to negative all laws passed by the several States contravening in the opinion of the National Legislature the articles of Union and to call forth the force of the Union against any member of the Union failing to fulfill its duty under the articles thereof

7 RESOLVED That a national executive be instituted to be chosen by the National Legislature for the term of years to receive punctually at stated times a fixed compensation for the services rendered in which no increase or diminution shall be made so as to affect the Magistracy existing at the time of increase or diminution and to be ineligible a second time and that besides a general authority to execute the National laws it ought to enjoy the Executive rights vested in Congress by the Confederation

8 RESOLVED That the executive and a convenient number of the National Judiciary ought to compose a council of revision with authority to examine every act of the National Legislature before it shall operate and every act of a particular Legislature before a Negative thereon shall be final and that the dissent of the said Council shall amount to a rejection unless the act of the National Legislature be again passed or that of a particular Legislature be again negatived by of the members of each branch.

9 RESOLVED That a national judiciary be established to consist of one or more supreme tribunals and of inferior tribunals to be chosen by the National Legislature to hold their offices during good behaviour and to receive punctually at stated times fixed compensations for their services in which no in

THE VIRGINIA PLAN AS REPORTED BY THE COMMITTEE OF THE WHOLE[1]

[*June 13 1 8/*]

1. RESOLVED That it is the opinion of this Committee that a national government ought to be established consisting of a Supreme Legislative Judiciary and Executive

RESOLVED That the National Legislature ought to consist of Two Branches

3 RESOLVED That the Members of the first branch of the national Legislature ought to be elected by the People of the several States for the term of Three years to receive fixed stipends by which they may be compensated for the devotion of their time to public service to be paid out of the National Treasury to be ineligible to any Office established by a particular State or under the authority of the United States (except those peculiarly belonging to the functions of the first branch) during the term of service and under the national government for the space of one year after its expiration

4 RESOLVED That the Members of the second Branch of the national Legislature ought to be chosen by the individual Legislatures to be of the age of thirty years at least to hold their offices for a term sufficient to ensure their independency namely seven years to receive fixed stipends by which they may be compensated for the devotion of their time to public service to be paid out of the National Treasury to be ineligible to any Office established by a particular State or under the authority of the United States (except those peculiarly belonging to the functions of the second branch) during the term of service and under the national government for the space of one Year after its expiration

5 RESOLVED That each branch ought to possess the right of originating acts

[1] Th t xt f ll F rrand R ds f th F deral C nv t I 228 3 as rra ged by Carl V Do en n h Th G t R h sal (1949) used by permiss f th P bl hers, The V ki g P ess.

to hold their offices during good behaviour to receive punctually at stated times a fixed compensation for their services, in which no increase or diminution shall be made so as to affect the persons actually in office at the time of such increase or diminution

12 RESOLVED That the national Legislature be empowered to appoint inferior Tribunals

13 RESOLVED That the jurisdiction of the national Judiciary shall extend to cases which respect the collection of the national revenue impeachments of any National officers and questions which involve the national peace and harmony

14 RESOLVED That provision ought to be made for the admission of States lawfully arising within the limits of the United States, whether from a voluntary junction of government and territory or otherwise with the consent of a number of voices in the National legislature less than the whole

15 RESOLVED That provision ought to be made for the continuance of Congress and their authorities until a given day after the reform of the articles of Union shall be adopted and for the completion of all their engagements

16 RESOLVED That a republican Constitution and its existing laws ought to be guaranteed to each State by the United States

17 RESOLVED That provision ought to be made for the amendment of the articles of Union whensoever it shall seem necessary

18 RESOLVED That the Legislative Executive and Judiciary powers within the several States ought to be bound by oath to support the articles of Union

19 RESOLVED That the amendments which shall be offered to the confederation by the Convention ought at a proper time or times after the approbation of Congress to be submitted to an assembly or assemblies of representatives recommended by the several Legislatures to be submitted to an assembly or assemblies of representatives recommended by the several Legislatures to be expressly chosen by the People to consider and decide thereon

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4 RESOLVED That the United States in Congress be authorized to elect a federal Executive to consist of   persons to continue in office for the term of   years to receive punctually at stated times a fixed compensation for their services in which no increase or diminution shall be made so as to affect the persons composing the Executive at the time of such increase or diminution to be paid out of the federal treasury to be incapable of holding any other office or appointment during their term of service and for   years thereafter to be ineligible a second time and removable by Congress on application by a majority of the Executives of the several States That the executive besides their general authority to execute the federal acts ought to appoint all federal officers not otherwise provided for and to direct all military operations provided that none of the persons composing the federal executive shall on any occasion take command of any troops so as personally to conduct any military enterprise as General or in any other capacity

5 RESOLVED That a federal Judiciary be established to consist of a supreme Tribunal the Judges of which to be appointed by the Executive and to hold their offices during good behaviour to receive punctually at stated times a fixed compensation for their services in which no increase or diminu

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THE BASIC DOCUMENTS

III

THE CONSTITUTION

A BRIEF SUMMARY

Although most of the principal provisions of the Constitution have been touched on in the introductory essay, it may be useful at this point to set down a brief systematic analysis of the document to serve the purposes of both summary and clarification.

I. GENERAL PRINCIPLES OF THE CONSTITUTION

1. The nature of the Union. The American nation has been identified in a phrase quoted elsewhere in these pages as "an indestructible Union composed of indestructible States,"[1] and this perpetual character of the constitutional arrangement has been recognized both in law and fact since the Civil War and in theory long before that. The textual warrants for this description are comparatively meager, for one it has been argued that the Articles of Confederation were declared to be perpetual and that the Preamble to the Constitution declares that the object is to "form a more perfect Union"; hence the perpetuity of the present Union is inevitably implied. For another thing, it can be argued that although the Constitution provides a method by which states are admitted to the Union (see Article IV, Section 3), it sets up no machinery for secession from it and recognizes no such possibility unless the amending clause be so regarded (Article V). Presumably the power of amendment might ratify a state's choice to leave the Union (although a theoretical dissent even to this might be made), but otherwise the constitutional text is said to imply an indissoluble arrangement. In any case the words of the Constitution aside, the Civil War settled the question of indestructibility on a *de facto* basis and surely nothing except war or the amending power can alter that status. As for the amending power itself, although it might be regarded as theoretically limited

[1] Texas Wh Wall 00 (1869)

of state trade regulations are forbidden because they in vad the dormant commerce power of Congress and that the states may not directly tax an instrumentality of the federal government (a prohibition which has also been applied in reverse so as to restrict the national government in taxing the states) Neither of these legal concepts is expressed in any specific clause of the Constitution they are said to arise from the nature of the federal system itself

4 Interstate Relations The provisions in Article IV Sections 1 and 2 relating to this subject are survivals of the interstate comity provisions of the Articles of Confederation Other provisions are the interstate compact clause of Article I Section 10 Paragraph 3 whose possibilities as a source of interstate cooperation are only recently being realized and the arrangement in Article III Section which gives the federal judiciary jurisdiction over interstate disputes Finally the commerce clause has been held to prevent the states from erecting commercial barriers against their neighbors so as to favor their own citizens at the expense of the rest of the nation

5 Elections The power to prescribe voting qualifications was left in the original Constitution to the several states though with some qualifications and subsequent amendments have extended these qualifications much further Article I Section provides that those who vote for Representative must have the qualifications of those who vote for the most numerous branch of the state legislature and the Seventeenth Amendment prescribes the same qualifications for those who elect Senators The states are also forbidden to deny the suffrage on the grounds of race or color (Amendment Fifteen) and on the ground of sex (Amendment Nineteen) The right to cast a vote for federal officers in accordance with valid state regulations can be protected by Congressional legislation. As for election to the presidency the states are left free to prescribe qualifications to vote for the Electoral College (subject of course to Amendments Fifteen and Nineteen) and it was originally assumed that the Electors so chosen would make a free choice. But in practice the Electors

existence is inferred from the nature of the legislative function and the power to control the appellate jurisdiction of the Supreme Court (Article III Section 2) The upshot of this impressive array of authority—and the list could be extended substantially—is that the Congress is endowed with the full range of powers generally expected of a sovereign nation and that constitutionally speaking it stands forth as the dominant branch of the federal triumvirate

2 *The Powers of the President* The Constitution makes the President an extremely potent executive Article I Section specifically makes him commander in chief of the nation s armed forces grants him broad control over the foreign policy of the United States through the treaty making power and authority over the administrative agencies of government through the power of appointment and removal. It is true that the Senate participates in both the treaty making and appointment process and that body is by no means negligible But the President in the nature of the case holds the initiative and this means that he is usually the dominant partner with respect to these functions The distinguishing characteristic of the president s constitutional authority is however its vagueness His authority as commander in chief and his duty to take care that the laws be faithfully executed (Article II Section III) are both hard to define and some commentators have made much of them More over it had been argued that the bestowal of the executive power vests him with general authority to perform the acts appropriate to that function quite apart from any explicit constitutional or congressional mandate At all events it is clear that he is a very powerful figure His position relative to the Congress probably depends not so much upon the Constitution as upon the facts of political life at any given time

3 *The Judicial Power* The salient facts about the judicial power are two the authority to review the acts and judicial decisions of the states which is supposedly derived from the supremacy clause and from the implications of Article III and the authority to review acts of

them as reasonably justified by some public danger Amendments Four throu h Eight protect certain procedural rights of the individual—generally speaking the right to be free from arbitrary treatment by police officers and the right to a fair trial Amendments Thirteen through Fifteen are the so-called Civil War Amendments passed after that conflict largely to ensure the newly freed Negro his civil ri hts From the point of view of litigation the Fourteenth has been by far the most important For some seventy years after its passage in 1868 the due process clause of that Amendment was interpreted chiefly as a protection for property holders but today it is construed to restrict the states in somewhat the same way that the first eight Amendments limit the national government

LETTER OF THE CONVENTION TO CONGRESS

In Convention September 17 1787

SIR

WE HAVE NOW THE HONOR to submit to the consideration of the United States in Congress assembled that Constitution which has appeared to us the most advisable

The friends of our country have long seen and desired that the power of making war peace and treaties of levying money and regulating commerce and the correspondent executive and judicial authorities should be fully and effectually vested in the general government of the Union but the impropriety of delegating such extensive trust to one body of men is evident— Hence results the necessity of a different organization

It is obviously impracticable in the federal government of these States to secure all rights of independent sovereignty to each and yet provide for the interest and safety of all— Individuals entering into society must give up a share of liberty to preserve the rest The magnitude of the sacrifice must depend as well on situation and circumstances as on the object to be obtained It is at all times difficult to draw with precision the line between those rights which must be surrendered and those which may be reserved and on the present occasion this difficulty was increased by a difference among the several States as to their situation extent habits and particular interests

In all our deliberations on this subject we kept steadily in our view that which appears to us the greatest interest of every true American the consolidation of our Union in which is involved our prosperity felicity safety perhaps our national existence This important consideration seriously and deeply impressed on our minds led each State in the

RESOLUTION OF THE CONVENTION

[September 1/ 1/87]

In Convention Monday September 1/th 1787

PRESENT *The States of New Hampshire Massachusetts Connecticut Mr Hamilton from New York New Jersey Pennsylvania Delawa e Maryland Virginia North Carolina South Carolina and Georgia*

Resolved That the Constitut on be laid before the United States in Congress assembled and that it is the opinion of this convent on that it should afterwards be submitted to a con vention of delegates chosen in each State by the people thereof under the recommendation of its legislature for their assent and ratification and that each convention assenting to and ratifying the same should give notice thereof to the Un ted States in Congress assembled.

Re ol ed That it is the opinion of this convention that as soon as the conventions of nine States shall have ratified this Constitut on the United States in Congress assembled should fix a day on which electors should be appointed by the States wh ch shall have ratified the same and a day on which the lectors should assemble to vote for the President and the time and place for commencing proceedings under this Con stitution that after such publication the electors should be appointed and the senators and representatives elected that the electors should meet on the day fixed for the election of the President, and should transmit their votes certified s gned sealed and directed as the Const tution requires to the sec retary of the United States in Congress assembled that the senators and representatives should convene at the time and place as igned that the senators should appoint a president of the Senate for the sole purpose of receiv ng opening and counting the votes for Pres dent and that after he shall be

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chosen the Congress together with the President without delay proceed to execute this Constitution

By the unanimous order of the convention

GEORGE WASHINGTON *President*

WILLIAM JACKSON *Secretary*

THE CONSTITUTION OF THE UNITED STATES

WE THE PEOPLE OF THE UNITED STATES IN ORDER TO FORM A MORE PERFECT UNION ESTABLISH JUSTICE, INSURE DOMESTIC TRANQUILITY PROVIDE FOR THE COMMON DEFENCE, PROMOTE THE GENERAL WELFARE, AND SECURE THE BLESSINGS OF LIBERTY TO OURSELVES AND OUR POSTERITY DO ORDAIN AND ESTABLISH THIS CONSTITUTION FOR THE UNITED STATES OF AMERICA.

ARTICLE I

SECTION 1 All legislative Powers herein granted shall be vested in a Congress of the United States which shall consist of a Senate and House of Representatives

SECTION (1) The House of Representatives shall be composed of Members chosen every second Year by the People of the several States and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature

( ) No person shall be a Representative who shall not have attained to the Age of Twenty five years and been seven Years a Citizen of the United States and who shall not when elected be an inhabitant of that State in which he shall be chosen

(3) Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union according to their respective Numbers which shall be determined by adding to the whole Number of free Persons including those bound to Service for a Term of Years and excluding Indians not taxed three fifths of all other Persons The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States and within every subsequent Term of ten Years in such Man

chosen the Congress together with the President should without delay proceed to execute this Constitution.

By the unanimous order of the convention

GEORGE WASHINGTON *President*

WILLIAM JACKSON *Secretary*

(5) The Senate shall chuse their other Officers and also a President pro tempore in the Absence of the Vice President or when he shall exercise the Office of President of the United States

(6) The Senate shall have the sole Power to try all Impeachments When sitting for that Purpose they shall be on Oath or Affirmation When the President of the United States is tried the Chief Justice shall preside And no Person shall be convicted without the Concurrence of two thirds of the Members present.

(7) Judgment in Cases of Impeachment shall not extend further than to removal from Office and disqualification to hold and enjoy any Office of honor Trust or Profit under the United States but the Party convicted shall nevertheless be liable and subject to Indictment Trial Judgment and Punishment according to Law

SECTION 4 (1) The Times Places and Manner of holding Elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof but the Congress may at any time by Law make or alter such Regulations except as to the Places of chusing Senators

(2) The Congress shall assemble at least once in every Year and such Meeting shall be on the first Monday in December unless they shall by Law appoint a different Day

SECTION 5 (1) Each House shall be the Judge of the Elections Returns and Qualifications of its own Members and a Majority of each shall constitute a Quorum to do Business but a smaller Number may adjourn from day to day and may be authorized to compel the Attendance of absent Members in such Manner and under such Penalties as each House may provide

(2) Each House may determine the Rules of its Proceedings punish its Members for disorderly Behavior and with the Concurrence of two thirds expel a Member

(3) Each House shall keep a Journal of its Proceedings and from time to time publish the same excepting such Parts as may in their Judgment require Secrecy and the Yeas and

the Votes of both Hou es shall be determined by Yeas and Nays and the Names of the Persons voting for and against the Bill shall be entered on the Journal of each House respec tively If any Bill shall not be returned by the President v ith n ten Days (Sundays excepted) after it shall have been presented to him the Same shall be a law in like Manner as if he had signed it unless the Congress by their Adjournment prevent its Return in v hich Case it shall not be a Law

(3) Every Order Resolut on or Vote to which the Concur rence of the Senate and House of Representatives may be nec essary (except on a question of Adjournment) shall be pre ented to the President of the United States and before the Same shall take Effect shall be approved by hi n or being disapproved by him shall be repassed by two thirds of the Senate and House of Representative accord ng to the Rules and Limitati n prescribed in the Case of a Bill

SECTION 8 (1) The Congress shall have Pov er To lay and collect Taxes Duties Imposts and Excises to pay the Debts and prov de for the common Defence and general Welfare of the United States but all Duties Imposts and Excises shall be uniform throughout the United States

( ) To borrov money on the Credit of the United States

(3) To regulate Commerce v th foreign Nations and among the several States and with the Indian Tribes

(4) To establ sh an uniform Rule of Natural zation, and un form Laws on the subject of Bankruptc es throughout the Un ted States

(5) To coin Money regulate the Value thereof and of for eign Co n and to fix the Standard of Weights and Measures

(6) To prov de for the Punishment of counterfeitin the Secu ities and cu rent Coin of the United States

(7) To establish Post Offices and post Roads

(8) To promote the Progress of Science and useful Arts by secur ng for limited T mes to Authors and In entors the ex clusive Right to the r respective Writings and Discoveries

(9) To const tute Tribunals inferior to the Supreme Court

(10) To define and Punish Piracies and F lonies committed

be su pended unless when in Cases of Rebellion or Invasion the public Safety may require it.

(3) No Bill of Attainder or ex post facto Law shall be passed.

(4) No Capitation or other direct tax shall be laid unless in Proportion to the Census or Enumeration herein before directed to be taken.

(5) No Tax or Duty shall be laid on Articles exported from any State

(6) No preference shall be given by any Regulation of Commerce or Revenue to the Ports of one State over those of another nor shall Vessels bound to or from one State be obliged to enter clear or pay Duties in another

(7) No Money shall be drawn from the Treasury but in Consequence of Appropriat ons made by Law and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be publ shed from time to time

(8) No Title of Nobility shall be granted by the United States And no Person holding any Office of Prof t or Trust under them shall without the Consent of the Congress accept of any present Emolument Off ce or T tle of any kind whatever from any King Prince or foreign State

SECTION 10 (1) No State shall enter into any Treaty Alliance or Confederation grant Letters of Marque and Reprisal coin Money emit Bills of Credit make any Thing but gold and s lver C n a Tender in Payment of Debts pass any Bill of Atta nder ex post facto Law or Law impairing the Obligation of Contracts or grant any Title of Nobil ty

(2) No State shall without the Consent of the Congress lay any Imposts or Duties on Imports or Exports except what may be absolutely necessary for executing it s inspection Laws and the net Produce of all Duties and Imposts laid by any State on Imports or Exports shall be for the Use of the Treasury of the United States and all such Laws shall be subject to the Rev sion and controul of the Congress

(3) No State shall without the Consent of Congress lay any Duty of Tonnage keep Troops or Ships of War in time of Peace enter into any Agreement or Compact with another

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one Vote A quorum for this Purpose shall consist of a Member or Members from two-thirds of the States and a Majority of all the States shall be necessary to a Choice In every Case after the Choice of the President the person having the greatest Number of Votes of the Electors shall be the Vice President But if there should remain two or more who have equal votes the Senate shall chuse from them by Ballot the Vice President

(3) The Congress may determine the Time of chusing the Electors and the Day on which they shall give their Votes which Day shall be the same throughout the United States

(4) No Person except a natural born Citizen or a Citizen of the United States at the time of the Adoption of this Constitution shall be eligible to the Office of President neither shall any Person be eligible to that Office who shall not have attained to the Age of thirty five Years and been fourteen Years a Resident within the United States

(5) In Case of the Removal of the President from Office or of his Death Resignation or Inability to discharge the Powers and Duties of the said Office the same shall devolve on the Vice President and the Congress may by Law provide for the Case of Removal Death Resignation or Inability both of the President and Vice President declaring what Officer shall then act as President and such Officer shall act accordingly until the Disability be removed, or a President shall be elected

(6) The President shall at stated Times receive for his Services a Compensation which shall neither be encreased nor diminished during the Period for which he shall have been elected and he shall not receive within that Period any other Emolument from the United States or any of them

(7) Before he enter on the Execution of his Office he shall take the following Oath or Affirmation — I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States and will to the best of my Ability preserve protect and defend the Constitution of the United States

SECTION 2 (1) The President shall be Commander in Chief

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ARTICLE III

SECTION 1 The judicial Power of the United States shall be vested in one supreme Court and in such inferior Courts as the Congress may from time to time ordain and establish The Judges both of the supreme and inferior Courts shall hold their Offices during good Behaviour and shall at stated Times receive for their Services a Compensation which shall not be diminished during their Continuance in Office

SECTION 2 (1) The judicial Power shall extend to all Cases in Law and Equity arising under this Constitution the Laws of the United States and Treaties made or which shall be made under their Authority —to all Cases affecting Ambassadors other public Ministers and Consuls —to all Cases of admiralty and maritime Jurisdiction —to Controversies to which the United States shall be a party —to Controversies between two or more States —between a State and Citizens of another State —between Citizens of different States —between Citizens of the same State claiming Lands under Grants of different States and between a State or the Citizens thereof and foreign States Citizens or subjects

(2) In all Cases affecting Ambassadors other public Ministers and Consuls and those in which a State shall be a Party the Supreme Court shall have original Jurisdiction In all the other Cases before mentioned the supreme Court shall have appellate Jurisdiction both as to Law and Fact with such Exceptions and under such Regulations as the Congress shall make

(3) The Trial of all Crimes except in Cases of Impeachment shall be by Jury and such Trial shall be held in the State where the said Crimes shall have been committed but when not committed within any State the Trial shall be at such Place or Places as the Congress may by Law have directed

SECTION 3 (1) Treason against the United States shall consist only in levying War against them or in adhering to their Enemies giving them Aid and Comfort. No person shall be

any Claims of the United States or of any particular State

SECTION 4 The United States shall guarantee to every State in this Union a Republican Form of Government and shall protect each of them against Invasion and on Application of the Legislature or of the Executive (when the Legislature cannot be convened) against domestic Violence

ARTICLE V

The Congress whenever two thirds of both Houses shall deem it necessary shall propose Amendments to this Constitution or on the Application of the Legislatures of two thirds of the several States shall call a Convention for proposing Amendments which in either Case shall be valid to all Intents and Purposes as Part of this Constitution when ratified by the Legislatures of three fourths of the several States or by Conventions in three fourths thereof as the one or the other Mode of Ratification may be proposed by the Congress Provided that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article and that no State without its Consent shall be deprived of its equal Suffrage in the Senate

ARTICLE VI

(1) All Debts contracted and Engagements entered into before the Adoption of this Constitution shall be as valid against the United States under this Constitution as under the Confederation

(2) This Constitution and the Laws of the United States which shall be made in pursuance thereof and all Treaties made or which shall be made under the Authority of the United States shall be the supreme Law of the Land and the Judges in every State shall be bound thereby any Thing in the Constitution or Laws of any State to the Contrary notwithstanding

Pennsyl ania

B FRANKLIN
THOMAS MIFFLIN
ROBT MORRIS
GEO CLYMER
THOS FITZSIMONS
JARED INGERSOLL
JAMES WILSON
GOUV MORRIS

Delaware

GEO READ
GUNNING BEDFORD JUN
JOHN DICKINSON
RICHARD BASSETT
JACO BROOM

Maryland

JAMES MCHENRY
DAN OF ST THOS JENIFER
DANL CARROLL

Vi ginia

JOHN BLAIR
JAMES MADISON JR

North Carolina

WM BLOUNT
RICHD DOBBS SPAIGHT
HU WILLIAMSON

South Carol na

J RUTLEDGE
CHARLES COTESWORTH PINCKNEY
CHARLES PINCKNEY
PIERCE BUTLER

Geo gia

WILLIAM FEW
ABR BALDWIN

Attest
WILLIAM JACKSON *Secr tary*

shall not be violated and no Warrants shall issue but upon probably cause supported by Oath or affirmation and particularly describing the place to be searched and the persons or things to be seized

ARTICLE V

No person shall be held to answer for a capital or oth rwise infamous crime unless on a presentment or indictment of a Grand Jury except in cases aris ng in the land or naval forces or in the Militia when in actual service in time of War or public danger nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb nor shall be compelled in any Cr minal Case to be a witness against himself nor be deprived of life liberty or property without due process of law nor shall private property be taken for public use w thout just compensat on

ARTICLE VI

In all criminal prosecutions the accused shall enjoy the ri ht to a speedy and public trial by an mpartial jury of the State and district wherein the crime shall have been committed wh h distr ct shall have been previously ascertained by la v and to be informed of the nature and cause of the accusation to be confronted with the witnesses a ainst him to have compulsory process for obtaining witnesses in his favor and to have the Assistance of Coun el for his defence

ARTICLE VII

In Suits at common law where the value in controversy shall exceed twenty d llars the r ght of tr al by jury shall be preserved and no fact tried by a jury shall be otherw ise reexam ned in any Court of the Un ted States than according o the rules of the common law

prove so much these arts that the land may easily maintain a much greater number of men than those who are immediately employed in its culture or who furnish the more necessary manufactures to such as are so employed

If these superfluous hands apply themselves to the finer arts, which are commonly denominated the arts of *luxury* they add to the happiness of the state, since they afford to many the opportunity of receiving enjoyments with which they would otherwise have been unacquainted But may not another scheme be proposed for the employment of these superfluous hands? May not the sovereign lay claim to them and employ them in fleets and armies to increase the dominions of the state abroad and spread its fame over distant nations? It is certain that the fewer desires and wants are found in the proprietors and laborers of land the fewer hands do they employ and consequently the superfluities of the land, instead of maintaining tradesmen and manufacturers, may support fleets and armies to a much greater extent than where a great many arts are required to minister to the luxury of particular persons Here, therefore seems to be a kind of opposition between the greatness of the state and the happiness of the subject. A state is never greater than when all its superfluous hands are employed in the service of the public The ease and convenience of private persons require that these hands should be employed in their service The one can never be satisfied but at the expense of the other As the ambition of the sovereign must entrench on the luxury of individuals, so the luxury of individuals must diminish the force and check the ambition of the sovereign

Nor is this reasoning merely chimerical but is founded on history and experience The republic of Sparta was certainly more powerful than any state now in the world consisting of an equal number of people, and this was owing entirely to the want of commerce and luxury The Helotes were the laborers

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tainly very erroneous. In France England and indeed most parts of Europe, half of the inhabitants live in cities, and even of those who live in the country a great number are artisans, perhaps above a third.

Instead of those soldiers who fought for liberty and empire in Camillus time there were in Augustus days musicians painters, cooks, players and tailors and if the land was equally cultivated at both periods it could certainly maintain equal numbers in the one profession as in the other They added nothing to the mere necessaries of life in the latter period more than in the former

It s natu al on this occasion to ask whether sovereigns may not return to the maxims of ancient policy and consult their own interest in this respect more than the happiness of their subjects? I answer that it appears to me almost impossible and that because ancient policy was violent and contrary to the more natural and usual course of things It is well known with what peculia laws Sparta was governed and what a prod gy that republ c is justly esteemed by everyone who has considered human nature as it has displayed itself in other nations and other ages. We e the testimony of history less positive and circumstantial such a government would appear a me e philosoph cal whim or fiction and impossible ever to be reduced to practice. And though the Roman and other ancient republics were supported on principles somewhat mo e natural yet was there an extraordinary concurrence of circumstances to make them submit to such grievous burdens. They were free states they were small ones and the age being martial all their neighbors were continually n arms Freedom naturally begets public sp rit, especially in small tates, and this public sp rit this *amor p triae* must in c ease when the public is almost in continual alarm and men are obliged ev ry moment to expose themselves to the greatest dangers for ts defense. A continual succession of wars makes every citizen a soldier he takes the field in his turn and during his service he is ch efly maintained by himself This service is indeed equivalent to a heavy tax, yet is t less felt by a people addicted to arms who f ght for honor and re enge more than pay and are unacquainted w th gain and industry as well as pleasure †

† The mo ancien R man lived in perpetual war w th all their gh-bors, and in old Latin th term *h stis* expressed both str ger nd an enemy This is remarked by C cer but by him is scribed t th hum n-ity f his cestors, who softened as m ch as possibl the den mination of

the Spartans were the soldiers or gentlemen. It is evident that the labor of the Helotes could not have maintained so great a number of Spartans had these latter lived in ease and delicacy and given employment to a great variety of trades and manufactures. The like policy may be remarked in Rome. And indeed throughout all ancient history it is observable that the smallest republics raised and maintained greater armies than states consisting of triple the number of inhabitants are able to support at present. It is computed that in all European nations, the proportion between soldiers and people does not exceed one to a hundred. But we read that the city of Rome alone, with its small territory, raised and maintained in early times ten legions against the Latins. Athens, the whole of whose dominions was not larger than Yorkshire, sent to the expedition against Sicily near forty thousand men. Dionysius the elder, it is said, maintained a standing army of a hundred thousand foot and ten thousand horse, besides a large fleet of four hundred sail,[d] though his territories extended no further than the city of Syracuse—about a third of the island of Sicily, and some seaport towns and garrisons on the coast of Italy and Illyricum. It is true the ancient armies, in time of war, subsisted much upon plunder; but did not the enemy plunder in their turn?—which was a more ruinous way of levying a tax than any other that could be devised. In short, no probable reason can be assigned for the great power of the more ancient states above the modern but their want of commerce and luxury. Few artisans were maintained by the labor of the farmers, and therefore more soldiers might live upon it. Livy says that Rome, in his time, would find it difficult to raise as large an army as that which, in her early days, she sent out against the Gauls and Latins.

Thucydides, lib. vii.

[d] Diod. Sic. lib. vii. This account, I own, is somewhat suspicious, not to say worse, chiefly because this army was not composed of citizens but of mercenary forces.

Tit. Liv., lib. vii, cap. 24. "Adeo in quae laboramus," says he, "sola crevimus, divitias luxuriemque." [Our growth has been confined only to the things for which we strive: wealth and luxury.]

their skill and industry increase, there must arise a great superfluity from their labor beyond what suffices to maintain them They have no temptation therefore, to increase their skill and industry since they cannot exchange that superfluity for any commodities which may serve either to their pleasure or vanity A habit of indolence naturally prevails. The greater part of the land lies uncultivated What is cultivated yields not its utmost for want of skill and assiduity in the farmers If at any time the public exigencies require that great numbers should be employed in the public service, the labor of the people furnishes now no superfluities by which these numbers can be maintained. The laborers cannot increase their skill and industry on a sudden Lands uncultivated cannot be brought into tillage for some years. The armies, meanwhile must either make sudden and violent conquests or disband for want of subsistence A regular attack or defense therefore is not to be expected from such a people, and their soldiers must be as ignorant and unskillful as their farmers and manufacturers

Everything in the world is purchased by labor and our passions are the only causes of labor When a nation abounds in manufactures and mechanic arts the proprietors of land as well as the farmers, study agriculture as a science and redouble their industry and attention The superfluity which arises from their labor is not lost, but is exchanged with manufactures for those commodities which men's luxury now makes them covet. By this means, land furnishes a great deal more of the necessaries of life than what suffices for those who cultivate it In times of peace and tranquillity this superfluity goes to the maintenance of manufacturers and the improvers of liberal arts. But it is easy for the public to convert many of these manufacturers into soldiers and maintain them by that superfluity which arises from the labor of the farmers. Accordingly we find that this is the case in all civilized governments When the sovereign raises an army what is the consequence He imposes a tax This tax obliges all the people to retrench what is least necessary to their subsistence Those who labor in such commodities must either enlist in the troops or turn themselves to agriculture, and thereby oblige some laborers to enlist for want of business And to consider the matter

Not to mention the great equality of fortunes among the inhabitants of the ancient republics where every field belonging to a different proprietor was able to maintain a family and rendered the numbers of citizens very considerable even without trade and manufactures

But though the want of trade and manufactures among a free and very martial people may sometimes have no other effect than to render the public more powerful it is certain that in the common course of human affairs it will have a quite contrary tendency Sovereigns must take mankind as they find them and cannot pretend to introduce any violent change in their principles and ways of thinking A long course of time with a variety of accidents and circumstances are requisite to produce those great revolutions which so much diversify the face of human affairs And the less natural any set of principles are which support a particular society the more difficulty will a legislator meet with in raising and cultivating them It is his best policy to comply with the common bent of mankind and give it all the improvements of which it is susceptible Now according to the most natural course of things, industry and arts and trade increase the power of the sovereign as well as the happiness of the subjects and that policy is violent which aggrandizes the public by the poverty of individuals This will easily appear from a few considerations which will present to us the consequences of sloth and barbarity

Where manufactures and mechanic arts are not cultivated the bulk of the people must apply themselves to agriculture and if

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an enemy by calling him by the same appellation which signified a stranger De Off lib i. It is however much more probable from the manners of the times, that the ferocity of those people was so great as to make them regard all strangers as enemies and call them by the same name It is not besides consistent with the most common maxims of policy or of nature that any state should regard its public enemies with a friendly eye or preserve any such sentiments for them as the Roman orator would ascribe to his ancestors. Not to mention that the early Romans really exercised piracy as we learn from their first treaties with Carthage, preserved by Polybius lib iii and consequently like the Sallee and Algerine rovers, were actually at war with most nations, and a stranger and an enemy were with them almost synonymous.

make the provisions and forage last longer than if the army were loaded with a number of superfluous retainers. But as these prin ciples a e too disinterested and too difficult to support it is requi site to govern men by other passions and animate them with a spirit of avarice and industry art and luxury The camp is, in this case, loaded with a superfluous retinue, but the provisions flow in proportionately larger The harmony of the whole is still supported and the natural bent of the mind being more com plied with individuals as well as the public find their account in the observance of those maxims.

The same method of reasoning will let us see the advantage of *fore gn* commerce in augmenting the power of the state as well as the riches and happiness of the subject It increases the stock of labor in the nation and the sovereign may convert what share of it he finds necessary to the service of the public. Foreign trade by its imports furnishes materials for new manufactures, and by its exports it p oduces labor in particular commodities which could not be consumed at home In short, a kingdom that has a large import and export must abound more with industry and that employed upon del cacies and luxuries, than a kingdom which rests contented with its native commodities It is therefore mo e powerful as well as richer and happier The individuals eap the benefit f these commodities so far as they g atify the senses and appetites and the public is also a gainer while a greater stock of labo is by this means stored up against any public exigency that is, a greater number of laborious men are maintained who may be diverted to the public service without robbing anyone of the necessaries or even the chief conven ences f life

If we consult h st ry ve shall find that, in most nations fo eign trade has preceded any refinement in home manufactures and g n birth to domestic luxury The temptation is stronger to make use of fo eign commodities which are ready for use and which a e enti ely new to us than to make imp ovements on any d mestic commodity wh ch always advance by slow degrees and never affect us by their novelty The p ofit is also very great in exportin what is superfluous at home and what bears no price

abstractly manufactures increase the power of the state only as they store up so much labor and that of a kind to which the public may lay claim without depriving anyone of the necessaries of life The more labor therefore, that is employed beyond mere necessaries the more powerful is any state since the persons engaged in that labor may easily be converted to the public service In a state without manufactures there may be the same number of hands but there is not the same quantity of labor nor of the same kind All the labor is there bestowed upon necessaries which can admit of little or no abatement

Thus the greatness of the sovereign and the happiness of the state are in a great measure united with regard to trade and manufactures It is a violent method and in most cases impracticable to oblige the laborer to toil in order to raise from the land more than what subsists himself and family Furnish him with manufactures and commodities and he will do it of himself afterward you will find it easy to seize some part of his superfluous labor and employ it in the public service without giving him his wonted return Being accustomed to industry he will think this less grievous than if at once you obliged him to an augmentation of labor without any reward The case is the same with regard to the other members of the state The greater is the stock of labor of all kinds the greater quantity may be taken from the heap without making any sensible alteration in it

A public granary of corn a storehouse of cloth a magazine of arms—all these must be allowed real riches and strength in any state. Trade and industry are really nothing but a stock of labor which in times of peace and tranquillity is employed for the ease and satisfaction of individuals but in the exigencies of state may in part be turned to public advantage Could we convert a city into a kind of fortified camp and infuse into each breast so martial a genius and such a passion for public good as to make everyone willing to undergo the greatest hardships for the sake of the public, these affections might now as in ancient times prove alone a sufficient spur to industry and support the community It would then be advantageous as in camps to banish all arts and luxury and by restrictions on equipage and tables

make the provisions and forage last longer than if the army were loaded with a number of superfluous retainers. But as these principles are too disinterested and too difficult to support, it is requisite to govern men by other passions, and animate them with a spirit of avarice and industry, art and luxury. The camp is, in this case, loaded with a superfluous retinue, but the provisions flow in proportionately larger. The harmony of the whole is still supported, and the natural bent of the mind being more complied with, individuals as well as the public find their account in the observance of those maxims.

The same method of reasoning will let us see the advantage of *foreign* commerce in augmenting the power of the state as well as the riches and happiness of the subject. It increases the stock of labor in the nation, and the sovereign may convert what share of it he finds necessary to the service of the public. Foreign trade by its imports furnishes materials for new manufactures, and by its exports it produces labor in particular commodities which could not be consumed at home. In short, a kingdom that has a large import and export must abound more with industry, and that employed upon delicacies and luxuries, than a kingdom which rests contented with its native commodities. It is therefore more powerful, as well as richer and happier. The individuals reap the benefit of these commodities so far as they gratify the senses and appetites, and the public is also a gainer, while a greater stock of labor is by this means stored up against any public exigency, that is, a greater number of laborious men are maintained, who may be diverted to the public service without robbing anyone of the necessaries or even the chief conveniences of life.

If we consult history we shall find that, in most nations, foreign trade has preceded any refinement in home manufactures and given birth to domestic luxury. The temptation is stronger to make use of foreign commodities which are ready for use and which are entirely new to us than to make improvements on any domestic commodity, which always advance by slow degrees and never affect us by their novelty. The profit is also very great in exporting what is superfluous at home and what bears no price

to foreign nations whose soil or climate is not favorable to that commodity Thus men become acquainted with the *pleasures* of luxury and the *profits* of commerce and their *delicacy* and *industry* being once awakened carry them on to further improvements in every branch of domestic as well as foreign trade and this perhaps is the chief advantage which arises from a commerce with strangers It arouses men from their indolence and, presenting the gayer and more opulent part of the nation with objects of luxury which they never before dreamed of raises in them a desire of a more splendid way of life than what their ancestors enjoyed And at the same time, the few merchants who possessed the secret of this importation and exportation make great profits and becoming rivals in wealth to the ancient nobility tempt other adventurers to become their rivals in commerce Imitation soon diffuses all those arts while domestic manufacturers emulate the foreign in their improvements and work up every home commodity to the utmost perfection of which it is susceptible Their own steel and iron in such laborious hands become equal to the gold and rubies of the Indies

When the affairs of the society are once brought to this situation a nation may lose most of its foreign trade and yet continue a great and powerful people If strangers will not take any particular commodity of ours, we must cease to labor in it The same hands will turn themselves toward some refinement in other commodities which may be wanted at home and there must always be materials for them to work upon till every person in the state who possesses riches enjoys as great plenty of home commodities and those in as great perfection as he desires which can never possibly happen China is represented as one of the most flourishing empires in the world though it has very little commerce beyond its own territories

It will not, I hope be considered as a superfluous digression if I here observe that as the multitude of mechanical arts is advantageous so is the great number of persons to whose share the productions of these arts fall A too great disproportion among the citizens weakens any state Every person if possible, ought to enjoy the fruits of his labor in a full possession of all the neces

n doubt
... ppiness of the rich than it adds to ... and dimin
that of the poor It also augments the *power of the state* and makes any extraordinary taxes or impositions be paid with more cheerfulness Where the riches are engrossed by a few these must contribute very largely to the supplying of the public necessities but when the riches are dispersed among multitudes, the burden feels light on every shoulder and the taxes make not a very sensible difference on anyones way of living

Add to this that, where the riches are in few hands, these must enjoy all the power and will readily conspire to lay the whole burden on the poor and oppress them still further to the discouragement of all industry

In this circumstance consists the great advantage of England above any nation at present in the world or that appears in the records of any story It is true the English feel some disadvantages in foreign trade by the high price of labor which is in part the effect of the riches of their artisans as well as of the plenty of money But as foreign trade is not the most material circumstance, it is not to be put in competition with the happiness of so many millions and if there were no more to endear to them that free government under which they live, this alone were sufficient The poverty of the common people is a natural if not an infallible effect of absolute monarchy though I doubt whether it be always true, on the other hand that their riches are an infallible result of liberty Liberty must be attended with particular accidents and a certain turn of thinking in order to produce that effect Lord Bacon accounting for the great advantages obtained by the English in their wars with France ascribes them chiefly to the superior ease and plenty of the common people among the former yet the government of the two kingdoms was at that time pretty much alike. Where the laborers and artisans are accustomed to work for low wages and to retain but a small part of the fruits of their labor it is difficult for them even in a free government, to better their condition or conspire among themselves to heighten their wages but even where they are accustomed to a

more plentiful way of life it is easy for the rich in an arbitrary government to conspire against *them* and throw the whole burden of the taxes on their shoulders

It may seem an odd position that the poverty of the common people in France Italy and Spain is, in some measure owing to the superior riches of the soil and happiness of climate yet there want no reasons to justify this paradox In such a fine mold or soil as that of those more southern regions agriculture is an easy art and one man with a couple of sorry horses will be able in a season to cultivate as much land as will pay a pretty considerable rent to the proprietor All the art which the farmer knows is to leave his ground fallow for a year as soon as it is exhausted and the warmth of the sun alone and temperature of the climate enrich it and restore its fertility Such poor peasants therefore require only a simple maintenance for their labor They have no stock or riches which claim more and at the same time they are forever dependent on the landlord who gives no leases nor fears that his land will be spoiled by the ill methods of cultivation In England the land is rich but coarse must be cultivated at a great expense and produces slender crops when not carefully managed and by a method which gives not the full profit but in a course of several years A farmer therefore, in England must have a considerable stock and a long lease which beget proportional profits The vineyards of Champagne and Burgundy that often yield to the landlord about five pounds per acre are cultivated by peasants who have scarcely bread the reason is that peasants need no stock but their own limbs with instruments of husbandry which they can buy for twenty shillings The farmers are commonly in some better circumstances in those countries But the graziers are most at their ease of all those who cultivate the land The reason is still the same Men must have profits proportionable to their expense and hazard Where so considerable a number of the laboring poor as the peasants and farmers are in very low circumstances, all the rest must partake of their poverty whether the government of that nation be monarchical or republican

We may form a similar remark with regard to the general his

tory of mankind. What is the reason why no people living between the tropics could ever yet attain to any police in their government and any military discipline, while few nations in the temperate climates have been altogether deprived of these advantages? It is probable that one cause of this phenomenon is the warmth and equality of weather in the torrid zone which render clothes and houses less requisite for the inhabitants and thereby remove, in part that necessity which is the great spur to industry and invention *Curis acuens mortalia corda*. Not to mention that the fewer goods or possessions of this kind any people enjoy the fewer quarrels are likely to arise amongst them and the less necessity will there be for a settled police or regular authority to protect and defend them from foreign enemies or from each other

XVII

OF THE BALANCE OF POWER

It is a question whether the *idea* of the balance of power be owing entirely to modern policy or whether the *phrase* only has been invented in these later ages? It is certain that Xenophon in his *Institution of Cyrus* represents the combination of the Asiatic powers to have arisen from a jealousy of the increasing force of the Medes and Persians and though that elegant composition should be supposed altogether a romance, this sentiment ascribed by the author to the Eastern princes is at least a proof of the prevailing notion of ancient times

In short the maxim of preserving the balance of power is founded so much on common sense and obvious reasoning that it is impossible it could altogether have escaped antiquity where we find in other particulars so many marks of deep penetration and discernment. If it was not so generally known and acknowledged as at present it had at least an influence on all the wiser and more experienced princes and politicians And indeed even at present however generally known and acknowledged among speculative reasoners it has not in practice an authority much more extensive among those who govern the world

After the fall of the Roman Empire, the form of government established by the northern conquerors incapacitated them in a great measure, for further conquests and long maintained each state in its proper boundaries. But when vassalage and the feudal militia were abolished mankind were anew alarmed by the danger of universal monarchy from the union of so many kingdoms and principalities in the person of the Emperor Charles.[1] But the power of the house of Austria founded on extensive but divided

[1] Lib I.

dominions, and their riches derived chiefly from mines of gold and silver were more likely to decay of themselves from internal defects than to overthrow all the bulwarks raised against them In less than a century the force of that violent and haughty race was shattered their opulence dissipated their splendor eclipsed A new power succeeded more formidable to the liberties of Europe, possessing all the dvantages of the former and laboring under none of its defects, except a share of that spirit of b gotry and persecution with which the house of Austria was so long, and still is, so much infatuated.[b]

In the general vars maintained against this ambitious power Great Britain has stood foremost and she still maintains her sta tion Beside her advantages of riches and situation her people are animated with such a national spirit and are so fully sensible of the blessings of their government that we may hope their vigor never will languish in so necessary and so just a cause. On the contrary if we may judge by the past, their passionate ardor seems rather to equire some moderation and they have oftener erred from a laudable excess than from a blamable deficiency

In the *first* place, we seem to have been more possessed with the ancient G eek sp rit of jealous emulation than actuated by the prudent vie s of modern politics Our wars with France have been begun w th justice, and even perhaps f om necessity but have always been too far pushed f om obstinancy and passion

[b] Eur pe has w for bo ury em ined on the d f nsi gainst th gre est force th t ev perhaps was formed by th ci il po tical combin tio of mankind. And such is th inf nce of the maxim here treated f th t though th t mb tiou tion th fi e las general wars h bee cto ious in fou and u su cessful only in one,† they ha e t much nl rged the domin or equired a total ascendant over Eur pe. O th co trary there remains till hope f main aing the esis nce so l g th t th tu al ol ions f h m ff irs t g ther with f reseen ts and ccid may guard us gains univ rsal mon chy d p eserve th w ld from so gre t n evil.—Editions F G H N

* Those concl ded by the peace f th Pyrenees Nimeguen Ryswick and Aix l -Chapelle.

† Tha concl ded by th pe ce f Utrecht.

The same peace which was afterward made at Ryswick in 1697 was offered so early as the year ninety two that concluded at Utrecht in 1712 might have been finished on as good conditions at Gertruytenberg in the year eight and we might have given at Frankfort in 1743 the same terms which we were glad to accept of at Aix la Chapelle in the year forty eight. Here then we see that above half of our wars with France and all our public debts are owing more to our own imprudent vehemence than to the ambition of our neighbors.

In the *second* place, we are so declared in our opposition to French power and so alert in defense of our allies that they always reckon upon our forces as upon their own and expecting to carry on war at our expense, refuse all reasonable terms of accommodation *Habent subjectos tanquam suos viles ut alienos*[b] All the world knows that the factious vote of the House of Commons in the beginning of the last Parliament with the professed humor of the nation made the Queen of Hungary inflexible in her terms and prevented that agreement with Prussia which would immediately have restored the general tranquillity of Europe

In the *third* place, we are such true combatants that when once engaged we lose all concern for ourselves and our posterity and consider only how we may best annoy the enemy To mortgage our revenues at so deep a rate in wars where we are only accessories was surely the most fatal delusion that a nation which had any pretension to politics and prudence has ever yet been guilty of That remedy of funding if it be a remedy and not rather a poison ought, in all reason to be reserved to the last extremity and no evil but the greatest and most urgent should ever induce us to embrace so dangerous an expedient

These excesses to which we have been carried are prejudicial and may perhaps in time become still more prejudicial another way by begetting, as is usual the opposite extreme and rendering us totally careless and supine with regard to the fate of Europe

b [They keep us in submission as if we were their slaves they consider us cheap because we bel g to someone else —Tacitus. *Hist* I b i. See p. 113]

XVIII

IDEA OF A PERFECT COMMONWEALTH

IT IS NOT WITH FORMS OF GOVERNMENT as with other artificial contrivances, where an old engine may be rejected if we can discover another more accurate and commodious or where trials may safely be made even though the success be doubtful. An established government has an infinite advantage by that very circumstance of its being established, the bulk of mankind being governed by authority not reason, and never attributing authority to anything that has not the recommendation of antiquity.

To tamper therefore, in this affair or try experiments merely upon the credit of supposed argument and philosophy can never be th part of a wise magistrate who will bear a reverence to what carries the marks of age, and though he may attempt some improvements for the public good yet will he adjust his innovations as much as possible to the ancient fabric and preserve entire the chief pillars and supports of the constitution.

The mathematicians in Europe have been much divided concerning that figure of a ship which is the most commodious for sailing, and Huygens who at last determined the controversy is justly thought to have obliged the learned as well as commercial world, though Columbus had sailed to America and Sir Francis Drake made the tour of the world without any such discovery. As one form of government must be allowed more perfect than another independent of the manners and humors of particular men why may we not inquire what is the most perfect of all though the common botched and inaccurate governments seem to

"Of all mankind ther on so pernici as pol ical project rs if they have power nor so rid culous if they want as on the ther hand, wise politicia th most ben fi l character in natur if accompanied h thority and h most in ocent d or altogether useless even if d pri ed of it. —Editio F G H N

serve the purposes of society and though it be not so easy to establish a new system of government as to build a vessel upon a new construction? The subject is surely the most worthy of curiosity of any the wit of man can possibly devise. And who knows, if this controversy were fixed by the universal consent of the wise and learned but in some future age an opportunity might be afforded of reducing the theory to practice either by a dissolution of some old government or by the combination of men to form a new one in some distant part of the world? In all cases it must be advantageous to know what is the most perfect in the kind that we may be able to bring any real constitution or form of government as near it as possible by such gentle alterations and innovations as may not give too great disturbance to society

All I pretend to in the present Essay is to revive this subject of speculation and therefore I shall deliver my sentiments in as few words as possible A long dissertation on that head would not, I apprehend be very acceptable to the public, who will be apt to regard such disquisitions both as useless and chimerical

All plans of government which suppose great reformation in the manners of mankind are plainly imaginary Of this nature are the *Republic* of Plato and the *Utopia* of Sir Thomas More. The *Oceana* is the only valuable model of a commonwealth that has yet been offered to the public

The chief defects of the *Oceana* seem to be these *first* its rotation is inconvenient by throwing men of whatever abilities, by intervals, out of public employment *Secondly* its *Agrarian* is impracticable Men will soon learn the art which was practiced in ancient Rome of concealing their possessions under other peoples names till at last the abuse will become so common that they will throw off even the appearance of restraint *Thirdly* the *Oceana* provides not a sufficient security for liberty or the redress of grievances The senate must propose and the people consent by which means the senate have not only a negative upon the people but what is of much greater consequence their negative goes before the votes of the people. Were the king's negative of the same nature in the English constitution and could he prevent any bill from coming into Parliament he would be an abso-

lute monarch. As his negative follows the votes of the houses, it is of little consequence: such a difference is there in the manner of placing the same thing. When a popular bill has been debated in Parliament, is brought to maturity, all its conveniences and inconveniences weighed and balanced; if afterward it be presented for the royal assent, few princes will venture to reject the unanimous desire of the people. But could the king crush a disagreeable bill in embryo—as was the case for some time in the Scottish Parliament, by means of the Lords of the Articles—the British government would have no balance, nor would grievances ever be redressed: and it is certain that exorbitant power proceeds not in any government from new laws so much as from neglecting to remedy the abuses which frequently rise from the old ones. A government, says Machiavel, must often be brought back to its original principles. It appears then that in the *Oceana* the whole legislature may be said to rest in the senate, which Harrington would own to be an inconvenient form of government, especially after the *Agrarian* is abolished.

Here is a form of government to which I cannot, in theory, discover any considerable objection.

Let Great Britain and Ireland, or any territory of equal extent, be divided into one hundred counties, and each county into one hundred parishes, making in all ten thousand. If the country proposed to be erected into a commonwealth be of more narrow extent, we may diminish the number of counties, but never bring them below thirty. If it be of greater extent, it were better to enlarge the parishes or throw more parishes into a county than increase the number of counties.

Let all the freeholders of twenty pounds a year in the county and all the householders worth five hundred pounds in the town parishes meet annually in the parish church and choose by ballot some freeholder of the county for their member, whom we shall call the *county representative*.

Let the one hundred county representatives, two days after their election, meet in the county town and choose by ballot from their own body ten county *magistrates* and one senator. There are, therefore, in the whole commonwealth one hun

senators one thousand and one hundred county magistrates, and ten thousand county representatives (for we shall bestow on all senators the authority of county magistrates and on all county magistrates the authority of county representatives

Let the senators meet in the capital and be endowed with the whole executive power of the commonwealth the power of peace and war of giving orders to generals, admirals, and ambassadors, and in short all the prerogatives of a British king except his negative

Let the county representatives meet in their particular counties and possess the whole legislative power of the commonwealth the greater number of counties deciding the question and where these are equal let the senate have the casting vote.

Every new law must first be debated in the senate and though rejected by it, if ten senators insist and protest it must be sent down to the counties. The senate if they please, may join to the copy of the law their reasons for receiving or rejecting it

Because it would be troublesome to assemble all the county representatives for every trivial law that may be requisite, the senate have their choice of sending down the law either to the county magistrates or county representatives

The magistrates though the law be referred to them may if they please call the representatives and submit the affair to their determination

Whether the law be referred by the senate to the county magistrates or representatives a copy of it and of the senate's reasons must be sent to every representative eight days before the day appointed for the assembling in order to deliberate concerning it And though the determination be by the senate, referred to the magistrates if five representatives of the county order the magistrates to assemble the whole court of representatives and submit the affair to their determination they must obey

Either the county magistrates or representatives may give to the senator of the county the copy of a law to be proposed to the senate and if five counties concur in the same order the law though refused by the senate must come either to the county magistrates or representatives, as is contained in the order of the five counties.

Any twenty counties by a vote either of their magistrates or representatives, may throw any man out of all public offices for a year thirty counties for three years.

The sena e has a power of thro ving out any member or number of members of its ov n body not to be re-elected for that year The senate cannot throw out twice in a year the senator of the same county

The power of the old senate continues for three weeks after the annual election of the county representatives. Then all the new senators are shut up in a conclave like the cardinals, and by an intricate ballot, such as that of Venice or Malta they choose the following magistrates a protector who represents the dignity of the commonwealth and presides in the senate, two secretaries of sta e these six councils—a council of state, a council of religion and learning, a council of trade, a council of laws a council of war a council of the admiralty—each council consisting of five persons togethe with six commissioners of the treasury and a first commissioner All these must be senators. The senate also names all the ambassadors to foreign courts who may either be senators or not.

The senate m y continue any or all of these, but must re-elect them every year

The p otector and two secretaries have session and suffrage in the council of state. The busi ess of that council is all fo eign poli cs The council of state has session and suffrage in all the other councils.

The council of religion and learning inspects the universities and clergy That of t ade spects e erything that may affect commerce That of la s inspects all the abuses of law by the inferior magistrates and exami es v hat improvements may be made of the municip l la That of war nspects the mil tia and its discipline, magazines stores, etc. and when the epublic is in war exami es to the proper orders fo generals The council of admiralty has the same pov er w th ega d to the navy together v ith the nominat on of the captains and ll infério officers

No e f these councils can g ve orders themselves except v he e they eceive such powers f om the senate. In other cases they must commun cate everyth ng to the senate

When the senate is under adjournment any of the councils may assemble it before the day appointed for its meeting

Besides these councils or courts there is another called the *court of competitors* which is thus constituted If any candidates for the office of senator have more votes than a third of the representatives that candidate who has most votes, next to the senator elected becomes incapable for one year of all public offices even of being a magistrate or representative, but he takes his seat in the court of competitors Here then is a court which may sometimes consist of a hundred members sometimes have no members at all and by that means be for a year abolished

The court of competitors has no power in the commonwealth It has only the inspection of public accounts and the accusing of any man before the senate. If the senate acquit him the court of competitors may if they please appeal to the people, either magistrates or representatives Upon that appeal the magistrates or representatives meet on the day appointed by the court of competitors and choose in each county three persons from which number every senator is excluded These to the number of three hundred meet in the capital and bring the person accused to a new trial

The court of competitors may propose any law to the senate and if refused may appeal to the people, that is to the magistrates or representatives, who examine it in their counties Every senator who is thrown out of the senate by a vote of the court takes his seat in the court of competitors.

The senate possesses all the judicative authority of the House of Lords that is, all the appeals from the inferior courts It likewise appoints the Lord Chancellor and all the officers of the law

Every county is a kind of republic within itself and the representatives may make bylaws which have no authority till three months after they are voted A copy of the law is sent to the senate and to every other county The senate or any single county may at any time annul any bylaw of another county

The representatives have all the authority of the British justices of the peace in trials, commitments etc.

The magistrates have the appointment of all the officers of the revenue in each county All causes with regard to the revenue are

carried ultimately by appeal before the magistrates. They pass the accounts of all the officers; but must have their own accounts examined and passed at the end of the year by the representatives.

The magistrates name rectors or ministers to all the parishes.

The Presbyterian government is established; and the highest ecclesiastical court is an assembly or synod of all the presbyters of the county. The magistrates may take any cause from this court, and determine it themselves.

The magistrates may try, and depose or suspend any presbyter.

The militia is established in imitation of that of Switzerland, which being well known, we shall not insist upon it. It will only be proper to make this addition, that an army of twenty thousand men be annually drawn out by rotation, paid and encamped during six weeks in summer; that the duty of a camp may not be altogether unknown.

The magistrates appoint all the colonels and downward, the senate all upward. During war, the general appoints the colonel and downward, and his commission is good for a twelvemonth; but after that, it must be confirmed by the magistrates of the county to which the regiment belongs. The magistrates may break any officer in the county regiment: and the senate may do the same to any officer in the service. If the magistrates do not think proper to confirm the general's choice, they may appoint another officer in the place of him they reject.

All crimes are tried within the county by the magistrates and a jury: but the senate can stop any trial, and bring it before themselves.

Any county may indict any man before the senate for any crime.

The protector, the two secretaries, the council of state, with any five or more that the senate appoints, are possessed, on extraordinary emergencies, of *dictatorial* power for six months.

The protector may pardon any person condemned by the inferior courts.

In time of war, no officer of the army that is in the field can have any civil office in the commonwealth.

The capital, which we shall call London, may be allowed four members in the senate. It may therefore be divided into four

for the better (1) The representation is more equal (2) The unlimited power of the burgomasters in the towns, which forms a perfect aristocracy in the Dutch commonwealth is corrected by a well tempered democracy in giving to the people the annual election of the county representatives (3) The negative, which every province and town has upon the whole body of the Dutch Republic with regard to alliances peace and war and the imposition of taxes is here removed (4) The counties in the present plan are not so independent of each other nor do they form separate bodies so much as the seven provinces where the jealousy and envy of the smaller provinces and towns against the greater particularly Holland and Amsterdam have frequently disturbed the government. (5) Larger powers though of the safest kind are intrusted to the senate than the States-General possess, by which means the former may become more expeditious and secret in their resolutions than it is possible for the latter

The chief alterations that could be made on the British government in order to bring it to the most perfect model of limited monarchy seem to be the following *First* the plan of Cromwell's Parliament ought to be restored by making the representation equal and by allowing none to vote in the county elections who possess not a property of two-hundred pound value *Secondly* as such a House of Commons would be too weighty for a frail House of Lords like the present the bishops and Scotch peers ought to be removed The number of the upper house ought to be raised to three or four hundred the seats not hereditary but during life. They ought to have the election of their own members and no commoner should be allowed to refuse a seat that was offered him By this means the House of Lords would consist entirely of the men of chief credit abilities and interest in the nation and every turbulent leader in the House of Commons might be taken off and connected by interest with the House of Peers. Such an aristocracy would be an excellent barrier both to the monarchy and against it At present the balance of our government depends in some measure on the abilities and behavior of the sovereign which are variable and uncertain circumstances

This plan of limited monarchy, however corrected, seems still liable to three great inconveniences. F st, it removes not entirely though it may soften the parties of *Court* and *Coun try*. *Secondly*, the king's personal character must still have great influence on the government. *Thirdly*, the sword is in the hands of a single person who will always neglect to d scipline the militia in order to have a pretense for keeping up a standing army.

We shall conclude this subject with observing the falsehood of the common p ni n that no la ge state such as France or Great Britain could ever be modeled into a commonwealth, but that such a form of government can only take place in a city or small territory. The contrary seems probable. Though it is more difficult to form a republican government in an extensive country than in a city, there is mo e facility, when once it is formed, of preserving it steady and uniform without tumult and faction. It is not easy f r the distant parts of a large state to combine in any plan of f ee government, but they easily conspire in the esteem and reverence for a single person who, by means of this popular favo , may seize the pov er and, forcing the mo e obstinate to submit, may establish a mona chical government. On the other hand, a city read ly concurs in the same notions of government, the natural equality of p operty favors l berty, and the nearness of habitation enables the citizens mutually to assist each other. Even under absolut princes the subordinate government of cities is commonly republican, while that of counties and provinces is monarchical. But these same circumstances which facil tate the erection of commonwealths in cities ender their constitution more fra l and uncertain. Democracies a e turbulent. For however the people may be separated or divided into small parties, either in th r otes o election, their near habitation in a city will always make th fo ce of popular tides and currents very sensible. Aristocracies a e better adapted f peace and order and accordingly we e most admired by ancient writers, but they are jealous and pp essi e. In a la ge government which is modeled with masterly skill there is compass and room enough to refine the democracy f m the lowe people who may be admitted into the

first elections or f[illegible]ction of the commonwealth to the higher magistrates [illegible] to direct all the movements At the same time the parts are so distant and remote that it is very difficult either by intrigue prejudice or passion to hurry them into any measures against the public interest

It is needless to inquire whether such a government would be immortal I allow the justness of the poet s exclamation on the endless projects of human race, Man and forever! The world itself probably is not immortal Such consuming plagues may arise as would leave even a perfect government a weak prey to its neighbors We know not to what length enthusiasm or other extraordinary movements of [illegible]
to the neglect of all order ar[illegible]
interest is removed whimsical unaccountable factions often arise from personal favor or enmity Perhaps rust may grow to the springs of the most accurate political machine and disorder its motions Lastly extensive conquests when pursued must be the ruin of every free government and of the more perfect governments sooner than of the imperfect because of the very advantages which the former possess above the latter And though such a state ought to establish a fundamental law against conquests, yet republics have ambition as well as individuals, and present interest makes men forgetful of their posterity It is a sufficient incitement to human endeavors that such a government would flourish for many ages without pretending to bestow on any work of man that immortality which the Almighty seems to have refused to his own productions

NOTES

INTRODUCTION

1 Edmund Jenn ngs Randolph (1/53–1813) former aide-de-camp to General Washington was a prominent Virginian who served Vi ginia as Attorney General as member of the Contin ental Congress and later as Governor As delegate to the Consu tutional Convention in 1/87 Randolph proposed the famous "Virginia plan, upon which our federal government was subsequently modeled. The plan provided for three separate branches of government—the legislature to cons st of two houses with proportional representation in each a s ngle national judiciary to be

and a
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as not

at and as Secretary of State ney General for the Federal ractice of law in Virginia In 1 95 he resumed the Aaron Burr when the latter was t ied for treason and in 1807 was chief counsel for

2 Elbridge Gerry (1/44–1814) was one of the signers of the Declaration f Independence and of the Articles of Confederation and later was elected Congressman from Massachusetts He was a member of the famous XYZ miss on to F ance in 1/97–1 98 As Governor f Massachusetts n 1810–1811 Gerry s name became associated with a plan to redistrict the state in uch a way as to continue Republican control giving rise to the fam us term gerrymander Gerry as elected V ce P esident of the Un ted States n 1813 and died the foll wing year

3 George Mason (17 5–1/9) wealthy Vi gin a planter and Revolution ry statesman was a membe of the V rg nia Consu tutional Con ention of 1/76 He p epa ed the Decl aration of Ri hts nd ost of the constitution for Vi ginia and later proposed the plan whereby Vi gin a ag eed to relinquish her cla m to land in the undevel ped West in favor of national o n ersh p As a member of the Federal Con titutional Convention Mason ref sed t gn the Constitution and actively opposed Vir g nia tificati Though lected, he also decl ned to serve as first United States Senator f om h s state

4 Gou eneur Morris (1/52–1816) a New Yo k lawyer who wo ked tirelessly for the colon al cause, was one of the signers

of the Articles of Confederation and the Constitution and a member of the Continental Congress As United States Minister to France from 1792 to 1794 Morris kept a diary which later was published as *A Diary of the French Revolution 1789–1893* and is regarded as an important sourcebook on that historic event.

I OF THE LIBERTY OF THE PRESS

1 François Marie Arouet (1694–1778) known as Voltaire. *La Henriade* (printed secretly 1723) is an epic poem against intolerance, with special reference to Henry IV of France. The translation of the passage which Hume quotes reads as follows And he made the untamed English like his yoke Who can neither serve nor live in liberty

2 By the republican part of the government Hume is referring to the English House of Commons

3 The Court of the Star Chamber (created by Henry VII) was a high civil and criminal court which decided its cases without juries It had almost unlimited powers of prosecution and became an instrument of persecution It consisted of members of the kings Privy Council and two judges appointed by the king It was finally abolished by the Long Parliament in 1641

II THAT POLITICS MAY BE REDUCED TO A SCIENCE

1 Henry III (r 1574–89) was the last king of the House of Valois He was involved in the plotting of the Massacre of St Bartholomew (1572) His reign was marked by persecution of the Huguenots Henry IV (r 1589–1610) was brought up as a Calvinist but renounced Protestantism in 1593 He issued the Edict of Nantes in 1598 guaranteeing the Huguenots freedom of religious exercise.

2. Elsewhere Hume mentions the spirit of tyranny of which nations are as susceptible as individuals in reference to the treatment of Ireland by England (*History of England* Vol VI Ch LXIV p 71)

3 The three Punic Wars between Rome and Carthage covered a period of over one hundred years dating 264–241 B C 218–201 B C. and 149–146 B C respectively

4 The First Triumvirate consisted of Pompey Julius Caesar and Marcus Licinius Crassus who took over the government of

Rome in 60 B.C. The Second Triumvirate, which governed Rome from 43 to 31 B.C. was composed of Octavius Mark Antony and Lepidus

5 The reference throughout this passage is to Sir Robert Walpole (1676–1745) prime minister from 1715 to 1717 and again from 1721 to 1742. A controversial but powerful figure it was he who unified cabinet government in the person of the prime minister and managed to transfer power from the House of Lords to the House of Commons

6 The reference is to the Glorious Revolution of 1688 and the subsequent accession of William and Mary William III ruled jointly with Mary from 1689 until her death in 1694 and then as sole sovereign until 1702.

7 Reference here is to Marcus Porcius Cato (234–149 B.C.) Cato the Elder and to Marcus Junius Brutus (85?–42 B.C.) called patriots because they opposed the dictatorship of the First Triumvirate (see note 4 above)

8 The Court party was a popular name for the royalists who supported the Stuarts The Country party was formed to defend the rights of the people against the renewed encroachments of the Stuarts on Parliament The Court party later became the Tories and the Country party the Whigs. Cf Humes own essay Of the Parties of Great Britain p 85 See also Note XI 3

III. OF THE FIRST PRINCIPLES OF GOVERNMENT

1 Hume is referring here to Lockes *Second Treatise of Government* (1690) Cf Chapter IX Of the Ends of Political Society and Government

2 Reference is here to William III See Note II 6

VI OF THE ORIGINAL CONTRACT

1 The divine-rights theory which was revived subsequent to the formation of the nation-state, became the major argument to justify absolute power of the monarch His right to govern was traced to Gods command Consequently he could do no wrong nor forfeit his right to the obedience of the people. In England the foremost representative of this theory was James I (r 1603–1625) who took an active part in the controversy His most important work is *The True Law of Free Monarchies* (1589)

2 "The other party are the defenders of the natural rights of

the individual a theory designed to limit royal power and enhance the concept of [illegible] government The interpretation of natural right as a right of the individual to political equality entered political thought in England through the arguments of the Levellers and later found its most effective formulation in Locke's *Second Treatise of Government* Cf also the Introduction p xlvi

3 Cf Locke's *Second Treatise of Government* especially §§ 4 22, 61 95 and 123

4 Republican writers were the political theorists who favored the sovereignty of Parliament They were not necessarily anti monarchical The foremost representatives of this group were among others Milton Harrington Algernon Sidney Halifax and Locke.

5 The Revolution of 1688

6 Hume refers here to the fact that William and Mary were invited to rule, not by popular vote, but by a majority of the members of Parliament.

7 Henry IV (r 1399–1413) was formally declared king by Parliament after he invaded England and defeated Richard II Henry VII (r 1485–1509) was acknowledged as king after he had invaded England and defeated Richard III

8 Henry VIII (r 1509–47) proclaimed with the approval of Parliament the Act of Supremacy (1534) which separated the Catholic Church in England from the Roman Catholic Church constituted an independent Anglican Church and appointed the king the supreme head of the Church and its clergy

9 Charles I (r 1625–49) dissolved three Parliaments in four years for non-compliance and ruled for eleven years without Parliament causing the Civil War of 1642–45 He was later condemned as a tyrant and enemy of the nation by a court constituted by the House of Commons and was beheaded in 1649

10 Reference here is to the rivalry between the houses of York and Lancaster for the throne of England This rivalry brought on the Wars of the Roses, so called because the emblem of the House of York was a white rose and that of Lancaster a red rose.

11 Hume refers here to Edward III of England (r 1327–77) and his claim to the throne of France. The war with Philip of France (r 1328–50) precipitated the Hundred Years War (1337–1453)

12 In the midst of these events Gordian Caesar was acclaimed by the army He was declared imperator because there was no other imperator at the moment.

13 On Tories and Whigs, see Of the Parties of Great Britain pp 85 ff Cf Introduction p xlii

VII OF PASSIVE OBEDIENCE

1 For Charles I see Note VI 9 James II (r 1685–88) was overthrown and forced to flee the country in the Revolution of 1688

IX WHETHER THE BRITISH GOVERNMENT INCLINES MORE TO ABSOLUTE MONARCHY OR TO A REPUBLIC

1 Cf James Harrington (1611–77) *The Commonwealth of Oceana* (1656) and his Aphorisms on government.

X. OF PARTIES IN GENERAL

1 The Guelfs and the Ghibellines were the primary rival parties in Italy from the twelfth to the fifteenth centuries the former being partisans of the Pope and the latter supporting the authority of the German emperors in Italy

XI. OF THE PARTIES OF GREAT BRITAIN

1 I e. the House of Commons See also Note I 2.

2 Reference here is to Charles I See Note VI 9

3 During the reign of Charles I Roundhead and Cavalier were popular names for the Country party and the Court party respectively The former were so called because they cut their hair short. See also Note II 8

XII OF THE COALITION OF PARTIES

1 Plantagenet was the English royal house which occupied the throne of England continuously from 1154 to 1399 as the House of Anjou and then through its descendents the warring houses of York and Lancaster (see Note VI, 10) until 1485

The Tudors ae
Stuarts from n
wealth from

2. The Magna Charta was signed by John I on June 15 1215 Although it guaranteed freedom and a voice in the affairs of state solely to the barons of the realm it is generally considered the basic document in the progress of the British people toward individual liberty The terms of the Magna Charta were often violated by subsequent rulers and the time from 1215 to 1688 is marked by an almost uninterrupted struggle of the people not only to enforce the basic principles of the Magna Charta but also to broaden their application by extending the guarantees to the commons and by assigning the major voice in the affairs of state to Parliament. The Revolution of 1688 decided this contest in favor of Parliament

VIII OF CIVIL LIBERTY

1 Lucius Aelius Sejanus (died 31 A D) attempted unsuccessfully to usurp the throne of Emperor Tiberius André Hercule de Fleury (1653–1743) a French Cardinal and statesman had great influence over Louis XV and became in effect but not in title, prime minister of France (1726–43)

2. The family of Medici was the ruling house of Florence from the fourteenth to the sixteenth century *Lodovico Ariosto* (1474–1533) and Torquato Tasso (1544–95) were Italian poets Galileo (1564–1642) Italian astronomer and physicist Raphael (1483–1520) Italian painter Michelangelo (1475–1564) Italian painter sculptor and poet

3 Traces of our rustic provenience have nevertheless survived for a long time and still survive today

4 Jonathan Swift (1667–1745) was an English writer and satirist His best known works are *Gulliver's Travels* (1726) *A Tale of a Tub* and *The Battle of the Books* (both 1704)

5 Thomas Sprat (1635–1713) English prelate writer and poet John Locke (1632–1704) English philosopher and political theorist (see Note VI 2) Sir William Temple (1628–99) English statesman essayist and diplomat Francis Bacon (1561–1626) English philosopher James Harrington (1611–77) English political theorist and John Milton (1608–74) English poet and political writer advocating the sovereignty of Parliament.

XIV OF THE RISE AND PROGRESS OF THE ARTS AND SCIENCES

1 "The Genius knows, the companion who rules the star of our birth the God of the nature of man although he is mortal for each individual, and although his face changes, being white or black

2. Decemvirs In 451 B.C. a commission of patrician decemvirs was given temporary dictatorship to codify and make public the law which hitherto had been subject to arbitrary interpretation by the (patrician) magistrates The commission prepared ten tables which, together with two tables drawn up by a new commission of decemvirs appointed in the following year formed the celebrated Law of the Twelve Tables However these laws favored the patricians and thus laid the legal ground for the century long struggle of the plebeians to gain political equality The second commission tried to perpetuate itself in office but was forced by a threatening revolt of the plebeians to resign

3 Hume is referring here to the plays *Pericles Prince of Tyre* (1608?) and *Othello the Moor of Venice* (1604) both by Shakespeare, and to *Every Man in His Humor* (1598) and *Volpone or the Fox* (1607) by Ben Jonson

4 Edmund Waller (1606–87) English poet and political writer defending the royalist cause

XV OF REFINEMENT IN THE ARTS

1 Charles VIII (r 1483–98) attempted to reinstate the House of Anjou in Naples and entered Naples in 1495 He was driven out later in the same year by the forces of Ferdinand II of Naples Francesco Guicciardini (1483–1540) Italian statesman was the author of *Storia d'Italia* (16 books published in 1561 4 books 1564) the major historical work of his time

2. Jules Mazarin (1602–61) French Cardinal and statesman succeeded Richelieu as prime minister (1642) The late king mentioned by Hume was Louis XIV (1643–1715)

3 Sallust (86–34 B.C.) Roman historian and author of *History of the Jugurthine War* *Conspiracy of Catiline* and *History of the Roman Republic*

XVI OF COMMERCE

1 Exciting mortal hearts with cares

XVII OF THE BALANCE OF POWER

1 Reference is here to the Holy Roman Emperor Charles V (r 1519–56) of whom it was said that the sun never set on his realm which extended over three continents and was the largest known until that time.

XVIII IDEA OF A PERFECT COMMONWEALTH

1 Christian Huygens (1629–95) Dutch astronomer and mathematician

2 Sir Francis Drake (1545?–96) English navigator and the first man known to have sailed around the world (1577–80)

3 *The Commonwealth of Oceana* by the English political theorist James Harrington (1611–77)

4 Cardinal de Retz (1614–79) French politician His *Memoires* give a picture of contemporary court life.